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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

RIN 3206–AM81

Special Rights for Transferred Employees Under the Dodd-Frank Act Regarding Federal Employees' Group Life Insurance

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rulemaking.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing a Final Rulemaking to implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act). The Act includes authorization for certain transferred employees to have a special enrollment opportunity and special rights regarding Federal Employees' Group Life Insurance (FEGLI) to ensure their continuity of benefits coverage.

DATES: Effective September 1, 2016.

FOR FURTHER INFORMATION CONTACT: Rachel Royster, Senior Policy Analyst, Planning and Policy Analysis, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

SUPPLEMENTARY INFORMATION: On January 6, 2014, the U.S. Office of Personnel Management (OPM) published a proposed regulation at 79 FR 613. The Administrative Procedures Act requires Federal agencies to publish a final regulation after a notice and comment period. Therefore, OPM is now finalizing this rule. The rule gave special FEGLI rights to the following employees who were carrying employer sponsored life insurance other than FEGLI: Employees from Office of Thrift Supervision (OTS) transferred to Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC) under the Act (Pub. L. 111–203). The new regulatory provisions include new subparts in part 870 of title 5 of the Code of Federal Regulations.

Authorizing legislation: Section 322 of Public Law 111–203 discusses the transfer of employees and their special FEGLI rights.

Section 322 Transfer of Employees From OTS to OCC or FDIC

The relevant portions of this section states that if, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or the Corporation determines that the Office of the Comptroller of the Currency or the Corporation will not continue to participate in any dental, vision or life insurance program of an agency from which an employee was transferred, a transferred employee who is a member of the program may, before the decision takes effect and without regard to any regularly scheduled open season, elect to enroll in the Federal Employees' Group Life Insurance Program established under chapter 87 of title 5, United States Code, without regard to any requirement of insurability.

For any transferred employee, enrollment in a life insurance plan administered by the agency from which the employee transferred, immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for the purpose of 8706(b)(1)(A) of title 5, United States Code.

These provisions allow a transferring employee that participated in an OTS life insurance program that is no longer available at OCC or FDIC to have a special enrollment period for FEGLI. OTS maintained the Office of Thrift Supervision Group Life Insurance Program in which OCC and FDIC did not continue to participate. Therefore, at approximately one year after the transfer date, July 21, 2011, OPM held a special enrollment period for transferred employees participating in Office of Thrift Supervision Group Life Insurance Program to enroll in FEGLI. The special enrollment period began on June 1, 2012 and ended July 29, 2012.

Any employee that enrolled in FEGLI during this special enrollment period will have their time in a life insurance plan administered by OTS credited towards their 5 years of continuous enrollment to continue FEGLI coverage into retirement.

There were other provisions in the Dodd-Frank Act relating to FEGLI coverage discussed in the Notice of Proposed Rulemaking. However, these do not require further changes in FEGLI rulemaking. We received no comments on the proposed rule.

Regulatory Impact Analysis: OPM has examined the impact of this proposed rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of $100 million or more in any one year. This rule is not considered a major rule because OPM expects that this rule will not impose costs of more than $100 million in any one year.

Executive Orders 13563 and 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Orders 13563 and 12866.

Federalism

We have examined this rule in accordance with Executive Order 13132, "Federalism," and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

List of Subjects in 5 CFR Part 870

Administrative practice and procedure, Government employees, Life insurance.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

For the reasons set forth in the preamble, the U.S. Office of Personnel Management amends 5 CFR part 870 as follows:

Title 5—Administrative Personnel

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

■ 1. The authority citation for part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; Subpart J also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; Sec. 870.302(a)(3)(ii) also issued under section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251, and section 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 870.302(a)(3) also issued under section 145 of Pub. L. 106–522, 114 Stat. 2472; Secs. 870.302(b)(8), 870.601(a), and 870.602(b) also issued under Pub. L. 110–279, 122 Stat. 2604; Subpart E also issued under 5 U.S.C. 8702(c); Sec. 870.601(d)(3) also issued under 5 U.S.C. 8706(d); Sec. 870.703(e)(1) also issued under section 502 of Pub. L. 110–177, 121 Stat. 2542; Sec. 870.705 also issued under 5 U.S.C. 8714b(c) and 8714c(c); Public Law 104–106, 110 Stat. 521.

■ 2. In § 870.701, add paragraph (f) to read as follows:

§ 870.701 Eligibility for life insurance.

* * * * *

(f) An individual's period of coverage in a life insurance plan is credited to the 5 years of service under paragraph (a)(2) of this section if:

(1) He/she participated in the Office of Thrift Supervision (OTS) life insurance plan and transferred to the Office of the Comptroller of the Currency or the Federal Deposit Insurance Corporation under the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203; and

(2) Elected FEGLI coverage during the special enrollment period between June 1, 2012 and July 29, 2012. Evidence of the non-FEGLI period of continuous coverage will be documented in a manner designated by OPM.

[FR Doc. 2016–21077 Filed 8–31–16; 8:45 am]

BILLING CODE 6325–63–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2016–4138; Special Conditions No. 25–635–SC]

Special Conditions: Bombardier Inc., Model BD–700–2A12 and BD–700–2A13 Airplanes; Interactions of Systems and Structures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Bombardier Inc. (Bombardier) Model BD–700–2A12 and BD–700–2A13 airplanes. These airplanes will have novel or unusual features when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. These design features include systems that, directly or as a result of failure or malfunction, affect structural performance. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Bombardier on September 1, 2016. We must receive your comments by October 17, 2016.

ADDRESSES: Send comments identified by docket number FAA–2016–4138 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/*, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/*.

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Freisthler, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1119; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On May 30, 2012, Bombardier applied for an amendment to type certificate no. T00003NY to include the new Model BD–700–2A12 and BD–700–2A13 airplanes. These airplanes are derivatives of the Model BD–700 series of airplanes currently approved under type certificate no. T00003NY, and are marketed as the Bombardier Global 7000 (Model BD–700–2A12) and Global 8000 (Model BD–700–2A13). These airplanes are ultra-long-range, executive-interior business jets.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Bombardier must show that the Model BD–700–2A12 and BD–700–2A13 airplanes meet the applicable provisions of the regulations listed in type certificate no. T00003NY, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards for the BD–700–2A12 and BD–700–2A13 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model BD–700–2A12 and BD–700–2A13 airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The Model BD–700–2A12 and BD–700–2A13 airplanes will incorporate the following novel or unusual design features:

Systems that affect the airplane's structural performance, either directly or as a result of failure or malfunction. That is, the airplane's systems affect how it responds in maneuver and gust conditions, and thereby affect its structural capability. These systems may also affect the aeroelastic stability of the airplane. Such systems include flight-control systems, autopilots, stability-augmentation systems, load-alleviation systems, and fuel-management systems. These systems represent novel and unusual features when compared to the technology envisioned in the current airworthiness standards.

Discussion

The flight-control system of the Model BD–700–2A12 and BD–700–2A13 airplanes will consist of a full-authority fly-by-wire system with Normal and Direct modes of operation. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Special conditions have been applied on past airplane programs, with similar systems, to require consideration of the effects of those systems on structures.

The regulatory authorities and industry developed standardized criteria in the Aviation Rulemaking Advisory Committee (ARAC) forum based on the criteria defined in Advisory Circular (AC) 25.672–1, dated November 11, 1983. The ARAC recommendations have been incorporated in European Aviation Safety Agency (EASA) Certification Specifications (CS) 25.302 and CS–25 Appendix K. FAA rulemaking on this subject is not complete, thus the need for special conditions.

These special conditions are similar to those previously applied to other airplane models and to EASA CS 25.302. Transport Canada Civil Aviation (TCCA) plans to include CS 25.302 in the Model BD–700–2A12 and BD–700–2A13 airplanes' Canadian certification basis. The differences between these FAA special conditions and the current CS 25.302, which the FAA regards as minor, are shown below. Both these special conditions and CS 25.302:

- Specify the design load conditions to be considered. Special conditions 2(a)(i) and 2(b)(ii)(1) of these special conditions clarify that, in some cases, different load conditions are to be considered due to other special conditions or equivalent-level-of-safety findings.
- allow consideration of the probability of being in a dispatched configuration when assessing subsequent failures and potential "continuation of flight" loads (see special condition 2(d), below). These special conditions, however, also allow using probability when assessing failures that induce loads at the "time of occurrence," whereas CS 25.302 does not. The FAA provision is relieving as compared to CS 25.302.

The FAA chooses to preserve these minor differences and go forward with this version of the special conditions.

Applicability

As discussed above, these special conditions are applicable to the Model BD–700–2A12 and BD–700–2A13 airplanes. Should Bombardier apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to the other model as well.

Conclusion

This action affects only certain novel or unusual design features on two model series of airplanes. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bombardier Model BD–700–2A12 and BD–700–2A13 airplanes.

For airplanes equipped with systems that affect structural performance, either directly or as a result of a failure or malfunction, the influence of these systems and their failure conditions must be taken into account when showing compliance with the requirements of 14 CFR part 25, subparts C and D.

The following criteria must be used for showing compliance with these special conditions for airplanes equipped with flight-control systems, autopilots, stability-augmentation systems, load-alleviation systems, flutter-control systems, fuel-management systems, and other systems that either directly, or as a result of failure or malfunction, affect structural performance. If these special conditions are used for other systems, it may be necessary to adapt the criteria to the specific system.

1. The criteria defined herein only address the direct structural consequences of the system responses and performance. They cannot be considered in isolation, but should be included in the overall safety evaluation of the airplane. These criteria may, in some instances, duplicate standards already established for this evaluation. These criteria are only applicable to structure the failure of which could prevent continued safe flight and landing. Specific criteria that define

acceptable limits on handling characteristics or stability requirements, when operating in the system-degraded or inoperative mode, are not provided in these special conditions.

2. Depending upon the specific characteristics of the airplane, additional studies that go beyond the criteria provided in these special conditions may be required to demonstrate the airplane's capability to meet other realistic conditions, such as alternative gust or maneuver descriptions for an airplane equipped with a load-alleviation system.

3. The following definitions are applicable to these special conditions.

a. *Structural performance:* Capability of the airplane to meet the structural requirements of 14 CFR part 25.

b. *Flight limitations:* Limitations that can be applied to the airplane flight conditions following an in-flight occurrence, and that are included in the airplane flight manual (*e.g.,* speed limitations, avoidance of severe weather conditions, etc.).

c. *Operational limitations:* Limitations, including flight limitations, that can be applied to the airplane operating conditions before dispatch (*e.g.,* fuel, payload and master minimum-equipment list limitations).

d. *Probabilistic terms:* Terms such as probable, improbable, and extremely improbable, as used in these special conditions, are the same as those used in § 25.1309.

e. *Failure condition:* This term is the same as that used in § 25.1309. However, these special conditions apply only to system-failure conditions that affect the structural performance of the airplane (*e.g.,* system-failure conditions that induce loads, change the response of the airplane to inputs such as gusts or pilot actions, or lower flutter margins).

Effects of Systems on Structures

1. *General.* The following criteria will be used in determining the influence of a system and its failure conditions on the airplane structure.

2. *System fully operative.* With the system fully operative, the following apply:

a. Limit loads must be derived in all normal operating configurations of the system from all the limit conditions specified in 14 CFR part 25, subpart C (or defined by special conditions or equivalent level of safety in lieu of those specified in subpart C), taking into account any special behavior of such a system or associated functions, or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds, or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

b. The airplane must meet the strength requirements of 14 CFR part 25 (static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of nonlinearities must be investigated beyond limit conditions to ensure that the behavior of the system presents no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that will not allow it to exceed those limit conditions.

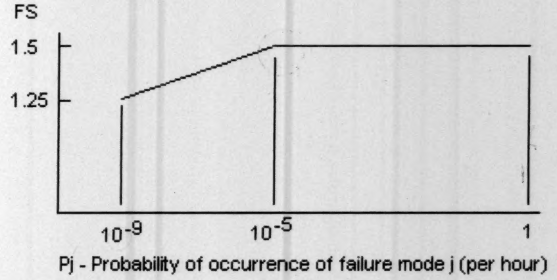
c. The airplane must meet the aeroelastic stability requirements of § 25.629.

3. *System in the failure condition.* For any system-failure condition not shown to be extremely improbable, the following apply:

a. At the time of occurrence. Starting from 1g level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after the failure.

i. For static-strength substantiation, these loads, multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure, are ultimate loads to be considered for design. The factor of safety is defined in Figure 1, below.

Figure 1: Factor of safety (FS) at the time of occurrence



ii. For residual-strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in special condition 3.a.(i). For pressurized cabins, these loads must be combined with the normal operating differential pressure.

iii. Freedom from aeroelastic instability must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions that result in speeds beyond V_C/M_C, freedom from aeroelastic instability must be shown to increased speeds, so that the margins intended by § 25.629(b)(2) are maintained.

iv. Failures of the system that result in forced structural vibrations (oscillatory failures) must not produce loads that could result in detrimental deformation of primary structure.

b. For the continuation of the flight. For the airplane in the system-failed state, and considering any appropriate reconfiguration and flight limitations, the following apply:

i. THE loads derived from the following conditions (or used in lieu of the following conditions) at speeds up to V_C/M_C (or the speed limitation prescribed for the remainder of the flight) must be determined:

1. The limit symmetrical maneuvering conditions specified in §§ 25.331 and 25.345.

2. The limit gust and turbulence conditions specified in §§ 25.341 and 25.345.

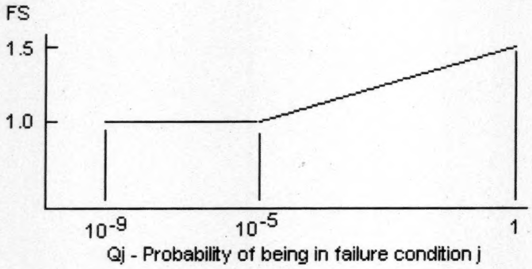
3. The limit rolling conditions specified in § 25.349, and the limit unsymmetrical conditions specified in §§ 25.367, and 25.427(b) and (c).

4. The limit yaw-maneuvering conditions specified in § 25.351.

5. The limit ground-loading conditions specified in §§ 25.473 and 25.491.

ii. For static-strength substantiation, each part of the structure must be able to withstand the loads in special condition 3.b.(i), multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety is defined in Figure 2, below.

Figure 2: Factor of safety (FS) for continuation of flight



$Q_j = (T_j)(P_j)$

Where:

Q_j = Probability of being in failure mode j
T_j = Average time spent in failure mode j (in hours)
P_j = Probability of occurrence of failure mode j (per hour)

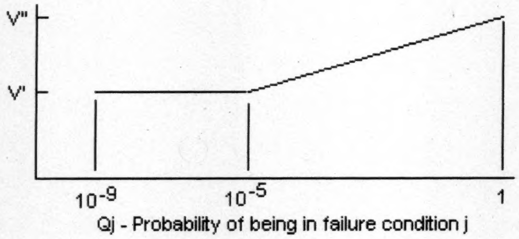
Note: If P_j is greater than 10^{-3} per flight hour, then a 1.5 factor of safety must be applied to all limit load conditions specified in 14 CFR part 25, subpart C.

iii. For residual-strength substantiation, the airplane must be able to withstand two-thirds of the ultimate loads defined in paragraph 3.b.(ii) of these special conditions. For pressurized cabins, these loads must be combined with the normal operating differential pressure.

iv. If the loads induced by the failure condition have a significant effect on fatigue or damage tolerance, then their effects must be taken into account.

v. Freedom from aeroelastic instability must be shown up to a speed determined from Figure 3, below. Flutter clearance speeds V' and V'' may be based on the speed limitation specified for the remainder of the flight using the margins defined by § 25.629(b).

Figure 3: Clearance speed



V' = Clearance speed as defined by § 25.629(b)(2).
V'' = Clearance speed as defined by § 25.629(b)(1).

$Q_j = (T_j)(P_j)$

Where:

Q_j = Probability of being in failure mode j
T_j = Average time spent in failure mode j (in hours)
P_j = Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then the flutter clearance speed must not be less than V''.

vi. Freedom from aeroelastic instability must also be shown up to V' in Figure 3, above, for any probable system-failure condition, combined with any damage required or selected for investigation by § 25.571(b).

b. Consideration of certain failure conditions may be required by other sections of 14 CFR part 25 regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than 10^{-9}, criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

4. Failure indications. For system-failure detection and indication, the following apply:

a. The system must be checked for failure conditions, not extremely improbable, that degrade the structural capability below the level required by 14 CFR part 25, or that significantly reduce the reliability of the remaining system. As far as reasonably practicable, the flightcrew must be made aware of these failures before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of detection and indication systems, to achieve the objective of this requirement. These certification-maintenance requirements must be limited to components that are not readily detectable by normal detection-and-indication systems, and where service history shows that inspections will provide an adequate level of safety.

b. The existence of any failure condition, not extremely improbable, during flight, that could significantly affect the structural capability of the airplane, and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the flightcrew. For example, failure conditions that result in a factor of safety between the airplane strength and the loads of 14 CFR part 25, subpart C below 1.25, or flutter margins below V'', must be signaled to the crew during flight.

5. *Dispatch with known failure conditions.* If the airplane is to be dispatched in a known system-failure condition that affects structural performance, or that affects the reliability of the remaining system to maintain structural performance, then the provisions of these special conditions must be met, including the provisions of special condition 2 for the dispatched condition, and special condition 3 for subsequent failures. Expected operational limitations may be taken into account in establishing P_j as the probability of failure occurrence for determining the safety margin in Figure 1. Flight limitations and expected operational limitations may be taken into account in establishing Q_j as the combined probability of being in the dispatched failure condition and the subsequent failure condition for the safety margins in Figures 2 and 3. These limitations must be such that the probability of being in this combined failure state, and then subsequently encountering limit load conditions, is extremely improbable. No reduction in these safety margins is allowed if the subsequent system-failure rate is greater than 10^{-3} per hour.

Issued in Renton, Washington, on August 23, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21122 Filed 8–31–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2016–4135; Special Conditions No. 25–636–SC]

Special Conditions: Bombardier Aerospace Inc. Model BD–700–2A12 and BD–700–2A13 Airplanes; Sidestick Controllers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Bombardier Aerospace Inc. (Bombardier) Model BD–700–2A12 and BD–700–2A13 airplanes. These airplanes will have a novel or unusual feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is a sidestick controller, designed to be operated with only one hand, in lieu of the conventional wheel or stick controls. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Bombardier on September 1, 2016. We must receive your comments by October 17, 2016.

ADDRESSES: Send comments identified by docket number FAA–2016–4135 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Todd Martin, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1178; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On May 30, 2012, Bombardier applied for an amendment to type certificate no. T00003NY to include the new Model BD–700–2A12 and BD–700–2A13 airplanes. These airplanes are derivatives of the Model BD–700 series of airplanes currently approved under type certificate no. T00003NY, and are marketed as the Bombardier Global 7000 (Model BD–700–2A12) and Global 8000 (Model BD–700–2A13). These airplanes are ultra-long-range, executive-interior business jets.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Bombardier must show that the Model BD–700–2A12 and BD–700–2A13 airplanes meet the applicable provisions of the regulations listed in type certificate no. T00003NY, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the BD–700–2A12 and BD–700–2A13 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model BD–700–2A12 and BD–700–2A13 airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The Bombardier Inc. Model BD–700–2A12 and BD–700–2A13 airplanes will have a novel or unusual design feature associated with sidestick controllers designed to be operated with only one hand.

Discussion

The Bombardier Aerospace Model BD–700–2A12 and BD–700–2A13 airplanes are equipped with sidestick controllers instead of the conventional wheel or control stick. This controller is designed to be operated using only one hand. The requirements of § 25.397(c), which define limit pilot forces and torques for conventional wheel or stick controls, are not adequate for sidestick controllers because pilot forces are applied to sidestick controllers with only the wrist, not arms. Special conditions are necessary to specify the appropriate loading conditions for sidestick controllers.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Model BD–700–2A12 and BD–700–2A13 airplanes. Should Bombardier apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to the other model as well.

Conclusion

This action affects only certain novel or unusual design features on two model series of airplanes. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bombardier Model BD–700–2A12 and BD–700–2A13 airplanes.

In lieu of the pilot forces specified in § 25.397(c), for airplanes equipped with sidestick controls designed for force application by one wrist and not arms, the limit pilot forces are as follows:

1. For all components between and including the handle and its control stops.

Pitch	Roll
Nose up: 200 pounds force (lbf).	Nose left: 100 lbf.
Nose down: 200 lbf	Nose right: 100 lbf.

2. For all other components of the sidestick control assembly, excluding the internal components of the electrical sensor assemblies, to avoid damage as a result of an in-flight jam.

Pitch	Roll
Nose up: 125 lbf	Nose left: 50 lbf.
Nose down: 125 lbf	Nose right: 50 lbf.

Issued in Renton, Washington, on August 23, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21123 Filed 8–31–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2015–6363; Special Conditions No. 25–637–SC]

Special Conditions: Bombardier Inc. Model BD–700–2A12 and BD–700–2A13 Airplanes; Hydrophobic Coatings in Lieu of Windshield Wipers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Bombardier Inc. (Bombardier) Model BD–700–2A12 and BD–700–2A13 airplanes. These airplanes will have a novel or unusual feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is hydrophobic coatings in lieu of windshield wipers. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Bombardier on September 1, 2016. We must receive your comments by October 17, 2016.

ADDRESSES: Send comments identified by docket number FAA–2015–6363 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/*, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/*.

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Bob Hettman, FAA, Propulsion and Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98057–3356; telephone 425–227–2683; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On May 30, 2012, Bombardier applied for an amendment to type certificate no. T00003NY to include the new Model BD–700–2A12 and BD–700–2A13 airplanes. These airplanes are derivatives of the Model BD–700 series of airplanes currently approved under type certificate no. T00003NY, and are marketed as the Bombardier Global 7000 (Model BD–700–2A12) and Global 8000 (Model BD–700–2A13). These airplanes are ultra-long-range, executive-interior business jets.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Bombardier must show that the Model BD–700–2A12 and BD–700–2A13 airplanes meet the applicable provisions of the regulations listed in type certificate no. T00003NY, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards for the BD–700–2A12 and BD–700–2A13 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model BD–700–2A12 and BD–700–2A13 airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The Bombardier Model BD–700–2A12 and BD–700–2A13 airplanes will have a novel or unusual design feature associated with flightdeck design, which incorporates a hydrophobic windshield coating to provide adequate pilot compartment view in the presence of precipitation. Sole reliance on such a coating, without windshield wipers, constitutes a novel or unusual design feature for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards.

Discussion

14 CFR 25.773(b)(1) requires a means to maintain a sufficiently clear portion of the windshield for both pilots to have an extensive view along the flight path during precipitation conditions. The regulations require this means to maintain such an area during precipitation in heavy rain at speeds up to 1.5 V_{SR1}. Hydrophobic windshield coatings may depend to some degree on airflow to maintain a clear vision area. The heavy rain and high speed conditions specified in the current rule do not necessarily represent the limiting condition for this new technology. For example, airflow over the windshield, which may be necessary to remove moisture from the windshield, may not be adequate to maintain a sufficiently clear area of the windshield in low-speed flight or during surface operations. Alternatively, airflow over the windshield may be disturbed during such critical times as the approach to land, where the airplane is at a higher-than-normal pitch attitude. In these cases, areas of airflow disturbance or separation on the windshield could cause a failure to maintain a clear vision area on the windshield.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Model BD–700–2A12 and BD–700–2A13 airplanes. Should Bombardier apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to the other model as well.

Conclusion

This action affects only certain novel or unusual design features on two model series of airplanes. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bombardier Model BD–700–2A12 and BD–700–2A13 airplanes.

1. In addition to meeting the requirements of § 25.773(b)(1), the airplane must have a means to maintain a clear portion of the windshield, during precipitation conditions, such that both pilots to have a sufficiently extensive view along the ground or flight path in taxi and flight. This means must be designed to function, without continuous attention on the part of the crew, in conditions from light misting precipitation to heavy rain, at speeds from fully stopped in still air to 1.5 V_{SR1} with lift and drag devices retracted, and in icing conditions specified in § 25.1419 if certification for flight in icing conditions is requested.

2. The precipitation removal system must comply with § 25.773.

3. Instructions to maintain the precipitation-removal system must comply with § 25.1529.

4. The materials used in the precipitation removal system must comply with § 25.603.

Issued in Renton, Washington, on August 23, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21079 Filed 8–31–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–7048; Directorate Identifier 2016–CE–014–AD; Amendment 39–18635; AD 2016–18–05]

RIN 2120–AA64

Airworthiness Directives; PILATUS AIRCRAFT LTD. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for PILATUS AIRCRAFT LTD. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes installed with an affected engine mounting frame assembly. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as longitudinal material separation on the internal surface of the engine mounting frame assembly tubes. We are issuing this AD to detect and correct this condition, which could lead to partial or complete failure of the structural joint and possibly result in in-flight detachment of the engine with consequent loss of control.

DATES: This AD is effective October 6, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of October 6, 2016.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7048; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Pilatus Aircraft Ltd., Customer Support PC–12, CH–6371 Stans, Switzerland; phone: +41 41 619 33 33; fax: +41 41 619 73 11; email: *SupportPC12@pilatus-aircraft.com;* Internet: *www.pilatus-aircraft.com.* For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for Docket No. FAA–2016–7048.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to PILATUS AIRCRAFT LTD. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes installed with an affected engine mounting frame assembly. The NPRM was published in the **Federal Register** on June 13, 2016 (81 FR 38115). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

> The PC–12 Engine Mounting Frame Assembly (hereafter referred to as "EMF" in this AD), Part Number (P/N) 571.20.12.036, is a welded structure including three special tubes, P/N 571.20.12.073, P/N 571.20.12.074 and P/N 571.20.12.107, the ends of which are subject to a special swaging process during manufacturing. Longitudinal material separation on the internal surface of the special tubes was detected on few EMFs on new production aeroplanes. Investigations identified the root cause to be an incorrect accomplishment of the swaging process.
>
> This condition, if not detected and corrected, could lead to growth of the material separation and subsequent partial or complete failure of the structural joint, possibly resulting in in-flight detachment of the engine and consequent reduced control, or loss of control, of the aeroplane.
>
> To address this potential unsafe condition, Pilatus issued Service Bulletin (SB) No. 71–009, now at Revision 2 (hereafter referred to as "the SB" in this AD), to provide inspection instructions for the affected EMF to detect indications of material separation.
>
> For the reason described above, this AD requires identification and inspection of the affected EMF and, depending on the findings, their replacement with serviceable EMF.

The MCAI can be found in the AD docket on the Internet at: *https://www.regulations.gov/document?D=FAA-2016-7048-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (81 FR 38115, June 13, 2016) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (81 FR 38115, June 13, 2016) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (81 FR 38115, June 13, 2016).

Related Service Information Under 1 CFR Part 51

We reviewed PILATUS AIRCRAFT LTD. PILATUS PC–12 Service Bulletin No: 71–009, Reference No: 345, Modification No: EC–15–0632, Revision 2, dated March 18, 2016; Pilatus Powerplant Mounting Frame, Removal/Installation, Date module/Technical publication 12–A–71–00–05–00A–920A–A, dated February 26, 2010, found in Pilatus Model type–PC–12, PC–12/45, PC–12/47 MSN–101–888 Aircraft Maintenance Manual (AMM), Document No. 02049, 12–A–AM–00–00–00–I; and Pilatus Powerplant Mounting Frame, Removal/Installation, Date module/Technical publication 12–B–71–00–05–00A–920A–A, dated October 4, 2010, found in Pilatus Model type–PC–12/47E MSN–1001–UP Aircraft Maintenance Manual (AMM), Document No. 02300, 12–B–AM–00–00–00–I. The service information describes procedures for determining if an affected engine mounting frame assembly (EMF) is installed, inspecting the EMF, and replacing the EMF with a serviceable EMF. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

Costs of Compliance

We estimate that this AD will affect 888 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $226,440, or $255 per product.

In addition, we estimate that any necessary follow-on actions would cost the following amounts. We have no way of determining the number of products that may need these actions.

The visual and eddy current inspections would take about 3 work-hours for a cost of $255 per product.

The replacement of the EMF would take about 90 work-hours and require parts costing $33,336, for a cost of $40,986 per product.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7048; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2016–18–05 PILATUS AIRCRAFT LTD.: Amendment 39–18635; Docket No. FAA–2016–7048; Directorate Identifier 2016–CE–014–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective October 6, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to PILATUS AIRCRAFT LTD. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes, all serial numbers, that are:

(1) Installed with an affected serial number engine mounting frame assembly (EMF), part number (P/N) 571.20.12.036, listed in figure 1 of paragraph (c)(1) of this AD; and

FIGURE 1 TO PARAGRAPH (c)(1) OF THIS AD: EMF P/N 571.20.12.036, AFFECTED SERIAL NUMBERS

0001 through 1200 inclusive.
1202 through 1272 inclusive.
1275 through 1323 inclusive.
1325 through 1328 inclusive.

FIGURE 1 TO PARAGRAPH (c)(1) OF THIS AD: EMF P/N 571.20.12.036, AFFECTED SERIAL NUMBERS—Continued

1334 through 1338 inclusive.
1340 and 1342.
1344 through 1346 inclusive.
1348 and 1349.
1358, 1361, and 1365.

(2) Certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 71: Power Plant.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as longitudinal material separation on the internal surface of the engine mounting frame assembly tubes (EMF). We are issuing this AD to detect and correct material separation on the internal surface of the engine mounting frame assembly tubes, which could lead to partial or complete failure of the structural joint and possibly result in in-flight detachment of the engine with consequent loss of control.

(f) Actions and Compliance

Do the actions in paragraphs (f)(1) through (7) of this AD. If paragraphs (f)(1) through (6) of this AD have already been done before October 6, 2016 (the effective date of this AD), then only paragraph (f)(7) of this AD applies.

(1) Within the compliance time identified in figure 2 of paragraph (f)(1) of this AD, do an ultrasonic inspection of the swaged engine mounting tube ends of the affected EMF following the instructions of paragraph 3.B.(1) of PILATUS AIRCRAFT LTD PILATUS PC–12 Service Bulletin No: 71–009, Reference No: 345, Modification No: EC–15–0632, Revision 2, dated March 18, 2016.

FIGURE 2 TO PARAGRAPH (f)(1) OF THIS AD: INITIAL COMPLIANCE TIME

A or B, Whichever Occurs Later	
A	Before the EMF exceeds 11,000 hours time-in-service (TIS) or 13,500 flight cycles (FC), whichever occurs first since first installation of the EMF on an airplane.
B	Within 1,000 hours TIS or 1,000 FC or 6 months, whichever occurs first after October 6, 2016 (the effective date of this AD).

(2) If an indication with an echo of less than 40 percent full screen height is detected on an EMF during the ultrasonic inspection required in paragraph (f)(1) of this AD, except for paragraph (f)(7), no further actions are required for this AD. Document compliance with this AD in the maintenance records.

(3) If an indication with an echo of 40 percent full screen height or more is detected on an EMF during the ultrasonic inspection required in paragraph (f)(1) of this AD, do the actions in paragraphs (f)(3)(i) through (iii) of this AD, as applicable.

(i) Before further flight and repetitively thereafter at intervals not to exceed 600 hours TIS or 12 months, whichever occurs first, do a visual inspection of the welding and do an eddy current inspection of the tubes at the indication point detected during the ultrasonic inspection. Use the instructions of paragraphs 3.B.(2) and 3.B.(3) of PILATUS AIRCRAFT LTD PILATUS PC–12 Service Bulletin No: 71–009, Reference No: 345, Modification No: EC–15–0632, Revision 2, dated March 18, 2016.

(ii) If any cracks are found during any of the visual inspections or if an indication with a signal of 20 percent or more is detected during any of the eddy current inspections required in paragraph (f)(3)(i) of this AD, before further flight, replace the EMF with a serviceable EMF following the instructions in the service information listed in paragraph (f)(5) of this AD, including all subparagraphs as applicable.

(iii) Unless already done as required by paragraph (f)(3)(ii) of this AD, with≤in 1,800 hours TIS or 36 months after the initial visual and eddy current inspections of the affected EMF required by paragraph (f)(3)(i) of this AD, whichever occurs first, replace the EMF with a serviceable EMF following the instructions in the service information listed in paragraph (f)(5) of this AD, including all subparagraphs as applicable.

(4) For the purpose of this AD, a serviceable EMF is defined as any EMF that is not listed in figure 1 of paragraph (c)(1) of this AD or an affected EMF that is listed in figure 1 of paragraph (c)(1) of this AD but has had the ultrasonic inspection required in paragraph (f)(1) of this AD and had an indication with an echo of less than 40 percent full screen height.

(5) For replacement of the EMF, follow the instructions listed in paragraphs (f)(5)(i) and (ii), as applicable.

(i) *For Models PC–12, PC–12/45, and PC–12/47, manufacturer serial numbers (MSN) 101–888:* Pilatus Powerplant Mounting Frame, Removal/Installation, Date module/Technical publication 12–A–71–00–05–00A–920A–A, dated February 26, 2010, found in Pilatus Model type-PC–12, PC–12/45, PC–12/47 MSN–101–888 Aircraft Maintenance Manual (AMM), Document No. 02049, 12–A–AM–00–00–00–I.

(ii) *For Model PC–12/47E, MSN 1001 and up:* Pilatus Powerplant Mounting Frame, Removal/Installation, Date module/Technical publication 12–B–71–00–05–00A–920A–A, dated October 4, 2010, found in Pilatus Model type-PC–12/47E MSN–1001–UP Aircraft Maintenance Manual (AMM), Document No. 02300, 12–B–AM–00–00–00–I.

(6) If an EMF has an indication with an echo of 40 percent or more during the ultrasonic inspection required in paragraph (f)(1) of this AD, you may replace the EMF with a serviceable EMF in lieu of the visual or eddy current inspections required in paragraph (f)(3)(i) of this AD. For replacement of the EMF, follow the instructions in the service information listed in paragraph (f)(5) of this AD, including all subparagraphs as applicable.

(7) As of October 6, 2016 (the effective date of this AD), do not install an EMF P/N 571.20.12.036 unless it has been determined to be a serviceable EMF as specified in paragraph (f)(4) of this AD.

(8) Airplanes with an MSN of 1556 or higher are not affected by this AD provided that the EMF has not been replaced since its manufacture. A review of the maintenance records, Airworthiness Approval Tag (FAA Form 8130–3), or other positive form of parts identification such as a shipping ticket, invoice, or direct ship authority letter, can be used to determine the serial number of the EMF.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

(1) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2016–0081, dated April 25, 2016, for related information pertaining to this AD. The MCAI can be found in the AD docket on the Internet at: *https://www.regulations.gov/document?D=FAA-2016-7048-0002.*

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) PILATUS PC–12 Service Bulletin No: 71–009, Reference No: 345, Modification No: EC–15–0632, Revision 2, dated March 18, 2016;

(ii) Pilatus Powerplant Mounting Frame, Removal/Installation, Date module/Technical publication 12–A–71–00–05–00A–920A–A, dated February 26, 2010, found in Pilatus Model type-PC–12, PC–12/45, PC–12/47 MSN–101–888 Aircraft Maintenance Manual

(AMM), Document No. 02049, 12–A–AM–00–00–00–I; and

(iii) Pilatus Powerplant Mounting Frame, Removal/Installation, Date module/Technical publication 12–B–71–00–05–00A–920A–A, dated October 4, 2010, found in Pilatus Model type- PC–12/47E MSN–1001–UP Aircraft Maintenance Manual (AMM), Document No. 02300, 12–B–AM–00–00–00–I.

(3) For service information identified in this AD, contact Pilatus Aircraft Ltd., Customer Support PC–12, CH–6371 Stans, Switzerland; phone: +41 41 619 33 33; fax: +41 41 619 73 11; email: *SupportPC12@pilatus-aircraft.com;* Internet: *www.pilatus-aircraft.com.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7048.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on August 23, 2016.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–20833 Filed 8–31–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–5460; Directorate Identifier 2015–NM–188–AD; Amendment 39–18599; AD 2016–16–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting an airworthiness directive (AD) that published in the **Federal Register**. That AD applies to certain Airbus Model A330–200 Freighter, –200, and –300 series airplanes. Paragraphs (i) and (l) of the regulatory text contain typographical errors in the service bulletin number. This document corrects those errors. In all other respects, the original document remains the same.

DATES: This final rule is effective September 8, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 8, 2016 (81 FR 51325, August 4, 2016).

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office–EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: *airworthiness.A330-A340@airbus.com*; Internet: *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5460.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1138; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION: Airworthiness Directive 2016–16–01, Amendment 39–18599 (81 FR 51325, August 4, 2016) (''AD 2016–16–01''), currently requires an inspection of affected structural parts in the cargo and cabin compartments to determine if proper heat treatment has been done, and replacement if necessary, for certain Airbus Model A330–200 Freighter, –200, and –300 series airplanes.

Need for the Correction

As published, paragraphs (i) and (l) of the regulatory text identify the service information by the wrong service bulletin number. Where paragraphs (i) and (l) incorrectly specify Airbus Service Bulletins ''A320–53–3227'' and ''A320–53–3228,'' the correct service bulletin numbers are ''A330–53–3227'' and ''A330–53–3228,'' respectively.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information:

- Airbus Service Bulletin A330–53–3227, dated August 18, 2015. The service information describes procedures to inspect affected structural parts in the cargo compartment to determine if proper heat treatment has been done, and replacement of parts; and
- Airbus Service Bulletin A330–53–3228, dated August 18, 2015. The service information describes procedures to inspect affected structural parts in the cabin compartment to determine if proper heat treatment has been done, and replacement of parts.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Correction of Publication

This document corrects two errors and correctly adds the AD as an amendment to 14 CFR 39.13. Although no other part of the preamble or regulatory information has been corrected, we are publishing the entire rule in the **Federal Register**.

The effective date of this AD remains September 8, 2016.

Since this action only corrects a typographical error in two locations, it has no adverse economic impact and imposes no additional burden on any person. Therefore, we have determined that notice and public procedures are unnecessary.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Corrected]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–16–01 Airbus: Amendment 39–18599; Docket No. FAA–2016–5460; Directorate Identifier 2015–NM–188–AD.

(a) Effective Date

This AD becomes effective on September 8, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category, manufacturer serial numbers 1175, 1180, 1287 through 1475 inclusive, 1478, 1480, 1483, and 1506.

(1) Model A330–223F and –243F airplanes.

(2) Model A330–201, –202, –203, –223, and –243 airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by a report of a manufacturing defect (*i.e.,* improperly heat-treated materials) that affects the durability of affected parts in the cargo and cabin compartments. We are issuing this AD to prevent crack initiation and propagation, which could result in reduced structural integrity of the fuselage.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection of Affected Structure in the Cargo Compartment

Within 72 months since first flight of the airplane, do an eddy current inspection (*i.e.,* conductivity measurement) of affected structural parts in the cargo compartment to determine if proper heat treatment has been done as identified in, and in accordance with, the Accomplishment Instructions of Airbus Service Bulletin A330–53–3227, dated August 18, 2015.

(h) Replacement of Non-Conforming Parts in the Cargo Compartment

If, during the inspection required by paragraph (g) of this AD, an affected structural part in the cargo compartment is identified to have a measured value greater than 26 megasiemens per meter (MS/m), or greater than 44.8% International Annealed Copper Standard (IACS), before further flight, replace the affected structural part with a serviceable part, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3227, dated August 18, 2015.

(i) Repair of Non-Conforming Parts in the Cargo Compartment

If, during the inspection required by paragraph (g) of this AD, an affected structural part in the cargo compartment is identified to have a measured value other than those specified in Figure A–GFAAA, Sheet 01, "Inspection Flowchart," of Airbus Service Bulletin A330–53–3227, dated August 18, 2015, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(j) Inspection of Affected Structure in the Cabin Compartment

Within 72 months since first flight of the airplane, do an eddy current inspection of affected structural parts in the cabin compartment to determine if proper heat treatment has been done as identified in, and in accordance with, the Accomplishment Instructions of Airbus Service Bulletin A330–53–3228, dated August 18, 2015.

(k) Replacement of Non-Conforming Parts in the Cabin Compartment

If, during the inspection required by paragraph (j) of this AD, an affected structural part in the cabin compartment is identified to have a measured value greater than 26 MS/m or greater than 44.8% IACS, before further flight, replace the affected structural part with a serviceable part, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3228, dated August 18, 2015.

(l) Repair of Non-Conforming Parts in the Cabin Compartment

If, during the inspection required by paragraph (j) of this AD, an affected structural part in the cabin compartment is identified to have a measured value other than those specified in Figure A–GFAAA, Sheet 01, "Inspection Flowchart," of Airbus Service Bulletin A330–53–3228, dated August 18, 2015, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1138; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(n) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2015–0212, dated November 4, 2015, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5460.

(o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on September 8, 2016 (81 FR 51325, August 4, 2016).

(i) Airbus Service Bulletin A330–53–3227, dated August 18, 2015.

(ii) Airbus Service Bulletin A330–53–3228, dated August 18, 2015.

(4) For service information identified in this AD, contact Airbus SAS, Airworthiness Office–EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: *airworthiness.A330-A340@airbus.com*; Internet: *http://www.airbus.com.*

(5) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(6) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://*

www.archives.gov/federal-register/cfr/ibr-locations.html.

Issued in Renton, Washington, on August 24, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–20991 Filed 8–31–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–3702; Directorate Identifier 2015–NM–103–AD; Amendment 39–18634; AD 2016–18–04]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2013–24–12 for all The Boeing Company Model 747–8 and 747–8F airplanes. AD 2013–24–12 required repetitive ultrasonic or dye penetrant inspections for cracking of the barrel nuts and bolts on each forward engine mount, and related investigative and corrective actions if necessary. This new AD retains the requirements of AD 2013–24–12 and also requires installing new barrel nuts at the forward engine mounts; or identifying the part number of the barrel nuts, inspecting affected barrel nuts for gaps of the strut bulkhead and forward engine mount, and doing related investigative and corrective actions if necessary. This new AD also removes airplanes from the applicability. This new AD also requires revising the maintenance or inspection program, as applicable, to include a new structurally significant item. This AD was prompted by our determination that it is necessary to mandate the installation of new barrel nuts or new inspections to adequately address the unsafe condition. We are issuing this AD to detect and correct cracked barrel nuts on a forward engine mount, which could result in reduced load capacity of the forward engine mount, separation of an engine under power from the airplane, and consequent loss of control of the airplane.

DATES: This AD is effective October 6, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 6, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of December 17, 2013 (78 FR 71989, December 2, 2013).

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3702.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3702; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *Nathan.P.Weigand@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2013–24–12, Amendment 39–17686 (78 FR 71989, December 2, 2013) (''AD 2013–24–12''). AD 2013–24–12 applied to all The Boeing Company Model 747–8 and 747–8F airplanes. The NPRM published in the **Federal Register** on February 25, 2016 (81 FR 9370) (''the NPRM''). The NPRM was prompted by our determination that it is necessary to mandate the installation of new barrel nuts or new inspections to adequately address the unsafe condition. The NPRM proposed to retain the requirements of AD 2013–24–12 and also require installing new barrel nuts at the forward engine mounts; or identifying the part number of the barrel nuts, inspecting affected barrel nuts for gaps of the strut bulkhead and forward engine mount, and doing related investigative and corrective actions if necessary. The NPRM also proposed to remove airplanes from the applicability. The NPRM also proposed to require revising the maintenance or inspection program, as applicable, to include a new structurally significant item. We are issuing this AD to detect and correct cracked barrel nuts on a forward engine mount, which could result in reduced load capacity of the forward engine mount, separation of an engine under power from the airplane, and consequent loss of control of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for the NPRM

Boeing stated that it supports the NPRM.

Request To Revise Applicability

The Civil Aviation Administration of China (CAAC) requested that we revise the applicability of the proposed AD to ensure that all necessary actions are applied on all applicable airplanes. CAAC explained that it compared the effectivity between Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015, which is referred to in the applicability of the proposed AD, and Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015 (which is referred to as the appropriate source of service information for doing the actions specified in paragraph (k) of the proposed AD). CAAC explained that there are more airplanes in Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015, than in Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015.

We agree to clarify and revise the applicability of this AD. The difference in effectivity between Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015, and Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015, is that there are six additional airplanes in Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015—four of these airplanes are foreign-registered, and the other two airplanes have not been delivered yet. We have revised paragraph (c) of this AD to refer to Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015. We have also revised paragraph (g) of this AD to specify that only airplanes identified in Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015, are affected by that paragraph.

Request for Explanation of Change in Applicability From AD 2013–24–12

The CAAC requested that we explain the change in the applicability paragraph of the proposed AD from that of AD 2013–24–12. The CAAC explained that the applicability paragraph of AD 2013–24–12 applies to all The Boeing Company Model 747–8 and 747–8F series airplanes. The CAAC stated that the NPRM would retain the requirements of AD 2013–24–12, but the applicability paragraph of the proposed AD only applies to The Boeing Company Model 747–8 and 747–8F airplanes identified in Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015.

We agree to clarify. AD 2013–24–12 was issued as an interim action. Boeing developed Boeing Special Attention Service Bulletin 747–71–2332, dated September 27, 2013 (currently at Revision 1, dated May 28, 2015), which contains a newly designed barrel nut. The effectivity in Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015, identifies the airplanes that did not have the newly designed barrel nuts installed upon delivery. Because this AD does not include airplanes that have the newly designed barrel nuts installed during production, the applicability of AD 2013–24–12 was reduced. No changes have been made to this AD in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

We reviewed the following service information:

- Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015. The service information describes procedures for inspecting for cracked bolts and barrel nuts on the forward engine mounts, replacing cracked bolts and barrel nuts, and sending the inspection results and cracked parts to Boeing.
- Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015. The service information describes procedures for installing new barrel nuts, inspecting the barrel nuts at the forward engine mount to determine the part number, inspecting for gaps of the strut bulkhead and forward engine mount, and doing applicable related investigative and corrective actions.
- Boeing 747–8/–8F Airworthiness Limitations (AWLs), Document Number D011U721–02–01, dated September 2015, which includes a limitation for Structurally Significant Item (SSI) 54–50–003c. The service information describes procedures for structural inspections.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 7 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections (retained actions from AD 2013–24–12).	Up to 24 work-hours × $85 per hour = $2,040 per inspection cycle.	$0	Up to $2,040 per inspection cycle.	Up to $14,280 per inspection cycle.
Installation (new action)	17 work-hours × $85 per hour = $1,445	6,384	7,829	Up to $54,803.
Inspections (new alternative actions)	4 work-hours × $85 per hour = $340	0	340	Up to $2,380.
Maintenance program revision (new requirement).	1 work-hour × $85 per hour = $85	0	85	595.

We have received no definitive data that would enable us to provide cost estimates for the bootstrap installation specified in this AD. We estimate the following costs to do other necessary related investigative and corrective actions that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Ultrasonic inspection	5 work-hours × $85 per hour = $425	$0	$425

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2013–24–12, Amendment 39–17686 (78 FR 71989, December 2, 2013), and adding the following new AD:

2016–18–04 The Boeing Company: Amendment 39–18634; Docket No. FAA–2016–3702; Directorate Identifier 2015–NM–103–AD.

(a) Effective Date

This AD is effective October 6, 2016.

(b) Affected ADs

This AD replaces AD 2013–24–12, Amendment 39–17686 (78 FR 71989, December 2, 2013) ("AD 2013–24–12").

(c) Applicability

This AD applies to The Boeing Company Model 747–8 and 747–8F airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Unsafe Condition

This AD was prompted by a report of cracked barrel nuts found on a forward engine mount, and by the determination that additional actions are necessary to address the unsafe condition. We are issuing this AD to detect and correct cracked barrel nuts on a forward engine mount, which could result in reduced load capacity of the forward engine mount, separation of an engine under power from the airplane, and consequent loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Repetitive Inspections and Corrective Actions, With Revised Service Information

This paragraph restates the actions required by paragraph (g) of AD 2013–24–12, with revised service information. For airplanes identified in Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015: Except as required by paragraph (h)(1) of this AD, at the time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–71A2329, dated September 27, 2013, do the inspection specified in paragraph (g)(1) or (g)(2) of this AD, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–71A2329, dated September 27, 2013; or Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015. Do all applicable related investigative and corrective actions before further flight. Repeat the inspection thereafter at the times specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–71A2329, dated September 27, 2013. As of the effective date of this AD, use only Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015.

(1) Ultrasonic inspection for cracking of the barrel nuts on each forward engine mount, except as required by paragraph (h)(2) of this AD.

(2) Dye penetrant inspection for cracking of the bolts and barrel nuts. Whenever a dye penetrant inspection is done, all the bolts and barrel nuts on that engine mount must be removed and replaced with new or serviceable parts.

(h) Retained Exceptions to Service Information Specifications, With Revised Service Information References

(1) Where Boeing Alert Service Bulletin 747–71A2329, dated September 27, 2013; or Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015; specify a compliance time "after the original issue date of this service bulletin," this AD requires compliance within the specified compliance time after December 17, 2013 (the effective date of AD 2013–24–12).

(2) Where Appendix B of Boeing Alert Service Bulletin 747–71A2329, dated September 27, 2013, and Appendix B of Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015, state that alternate instruments and transducers can be used, this AD requires that only equivalent instruments and transducers can be used.

(3) Where Appendix A of Boeing Alert Service Bulletin 747–71A2329, dated September 27, 2013, and Appendix A of Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015, state to record flight hours and flight cycles, record the flight hours and flight cycles on the airplane and the flight hours and flight cycles for each engine since change or removal.

(i) Retained Reporting and Sending Parts, With Revised Service Information

After any inspection required by paragraph (g) of this AD: Submit a report of the inspection results (both positive and negative), and return all cracked bolts and barrel nuts, at the applicable time specified in paragraph (i)(1) or (i)(2) of this AD. The report must include the information requested in Appendix A of Boeing Alert Service Bulletin 747–71A2329, dated September 27, 2013, or Appendix A of Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015, except as required by paragraph (h)(3) of this AD. Both the report and all cracked bolts and barrel nuts must be sent to the address specified in Appendix A of Boeing Alert Service Bulletin 747–71A2329, dated September 27, 2013, or Appendix A of Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015.

(1) For airplanes on which an ultrasonic inspection was done and no cracking was found, do the required actions at the time specified in paragraph (i)(1)(i) or (i)(1)(ii) of this AD, as applicable.

(i) If the inspection was done on or after December 17, 2013 (the effective date of AD 2013–24–12): Submit the report within 10 days after the inspection.

(ii) If the inspection was done before December 17, 2013 (the effective date of AD 2013–24–12): Submit the report within 10 days after December 17, 2013 (the effective date of AD 2013–24–12).

(2) For airplanes on which a dye penetrant inspection was done, do the required actions at the time specified in paragraph (i)(2)(i) or (i)(2)(ii) of this AD, as applicable.

(i) If the inspection was done on or after December 17, 2013 (the effective date of AD 2013–24–12): Submit the report and return all cracked bolts and barrel nuts within 10 days after replacing the bolts and barrel nuts with new or serviceable bolts and barrel nuts in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–71A2329, dated September 27, 2013; or Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015.

(ii) If the inspection was done before December 17, 2013 (the effective date of AD 2013–24–12): Submit the report and return all cracked bolts and barrel nuts within 10 days after December 17, 2013 (the effective date of AD 2013–24–12).

(j) Retained Paperwork Reduction Act Burden Statement, With No Changes

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid Office of Management and Budget (OMB) Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(k) New Installation or Inspections

At the applicable time specified in paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015, except as required by paragraph (o)(1) of this AD: Do the actions specified in paragraph (k)(1) or (k)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015, except as required by paragraph (o)(2) of this AD.

(1) Install new barrel nuts using the bootstrap installation method identified in Part 1 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015.

(2) Do a general visual inspection to determine the part number (P/N) of the barrel nuts at the forward engine mount. If any barrel nut P/N SL4081C14SP1 is installed, before further flight, do a general visual inspection for gaps of the strut bulkhead and forward engine mount to determine if the nut-by-nut method identified in Part 4 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015, can be used, and do all applicable related investigative and corrective actions. Do all applicable related investigative and corrective actions before further flight, including the nut-by-nut replacement identified in Part 4 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015. If the nut-by-nut replacement identified in Part 4 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015, cannot be accomplished, install new nuts, in accordance with paragraph (k)(1) of this AD.

(l) Maintenance or Inspection Program Revision

Within 30 days after accomplishment of the actions required by paragraph (k) of this AD, or within 30 days after the effective date of this AD, whichever occurs later: Revise the maintenance or inspection program, as applicable, to incorporate Structurally Significant Item (SSI) 54–50–003c specified in Boeing 747–8/–8F Airworthiness Limitations (AWLs), Document Number D011U721–02–01, dated September 2015.

(m) Terminating Action

Accomplishment of the actions required by paragraphs (k) and (l) of this AD terminate the requirements of paragraphs (g) and (i) of this AD.

(n) Parts Installation Prohibition

As of the effective date of this AD, no person may install or reinstall any barrel nut P/N SL4081C14SP1 at the forward engine mount assembly on any airplane; and only P/N SL4750NA may be installed.

(o) New Exceptions to Service Information Specifications

(1) Where Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015, specifies a compliance time "after the original issue date of this service bulletin," this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015, specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (r) of this AD.

(p) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised as required by paragraph (l) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (r) of this AD.

(q) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (k) of this AD, if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 747–71–2332, dated May 30, 2014, which is not incorporated by reference in this AD.

(r) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (s)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved for AD 2013–24–12 are approved as AMOCs for the corresponding provisions of this AD.

(5) Except as required by paragraph (o)(2) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of

paragraphs (r)(5)(i) and (r)(5)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(s) Related Information

(1) For more information about this AD, contact Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *Nathan.P.Weigand@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (t)(5) and (t)(6) of this AD.

(t) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on October 6, 2016.

(i) Boeing Service Bulletin 747–71A2329, Revision 1, dated May 28, 2015.

(ii) Boeing Special Attention Service Bulletin 747–71–2332, Revision 1, dated May 28, 2015.

(iii) Boeing 747–8/–8F Airworthiness Limitation (AWL), Document Number D011U721–02–01, dated September 2015.

(4) The following service information was approved for IBR on December 17, 2013 (78 FR 71989, December 2, 2013).

(i) Boeing Alert Service Bulletin 747–71A2329, dated September 27, 2013.

(ii) Reserved.

(5) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(6) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on August 19, 2016.

Dorr M. Anderson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–20825 Filed 8–31–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6414; Directorate Identifier 2015–NM–175–AD; Amendment 39–18633; AD 2016–18–03]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This AD was prompted by two in-service incidents of a loss of all air data information in the flight deck. This AD requires a revision of the airplane flight manual (AFM) emergency procedures section to provide procedures to guide the crew on how to stabilize the airplane airspeed and attitude for continued safe flight when a loss of all air data information has occurred in the flight deck. We are issuing this AD to prevent loss of control when a loss of all air data information has occurred in the flight deck.

DATES: This AD is effective October 6, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 6, 2016.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com*; Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6414.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6414; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Assata Dessaline, Aerospace Engineer, Avionics and Services Branch, ANE–172, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7301; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The NPRM published in the **Federal Register** on May 10, 2016 (81 FR 28764) ("the NPRM"). The NPRM was prompted by two in-service incidents of a loss of all air data information in the flight deck. The NPRM proposed to require a revision of the AFM emergency procedures section to provide procedures to guide the crew on how to stabilize the airplane airspeed and attitude for continued safe flight when a loss of all air data information has occurred in the flight deck. We are issuing this AD to prevent loss of control when a loss of all air data information has occurred in the flight deck.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2015–12, dated June 23, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The MCAI states:

> Two in-service incidents have been reported on CL–600–2C10 aeroplanes

regarding a loss of all air data information in the cockpit. The air data information was recovered as the aeroplane descended to lower altitudes. An investigation determined that the root cause in both events was high altitude icing (ice crystal contamination). If not addressed, this condition may affect continued safe flight.

Due to similarities in the air data systems, such events could happen on all Bombardier CRJ models, CL–600–2B19, CL–600–2C10, CL–600–2D15, CL–600–2D24 and CL–600–2E25. Therefore, the corrective actions for these models will be mandated once their respective Airplane Flight Manual (AFM) revisions become available.

This [Canadian] AD mandates the incorporation of AFM procedures to guide the crew to stabilize the aeroplane's airspeed and attitude for continued safe flight.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6414.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the NPRM and the FAA's response to that comment.

Request To Determine Root Cause of Unsafe Condition

The Airline Pilots Association International (ALPA) requested further investigation and system modifications for the ice crystal contamination. ALPA stated that although the NPRM proposed an amendment to the AFM procedures for the crew, it does not believe that this AFM procedure addresses the root cause of the unsafe condition.

The Air Line Pilots Association stated that the AFM revision will not address the root cause of the high-altitude icing (ice crystal contamination), and requested that further investigation be done for the ice crystal contamination issue and remedies be provided in addition to the AFM amendments.

We agree that the AFM revision will not address the root cause of the high-altitude icing (ice crystal contamination). The manufacturer is investigating the issue, but there is no timetable for a final resolution. Should the manufacturer develop modifications to prevent this problem, the FAA will consider further rulemaking. The incorporation of the AFM procedures is meant to be used to guide the crew on how to stabilize the airplane airspeed and altitude for continued safe flight in icing conditions. However, further investigation into this matter extends beyond the scope of this AD.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc. has issued Section 03–19, "Unreliable Airspeed," of Chapter 3, "Emergency Procedures," in the Bombardier CRJ Series Regional Jet Model CL–600–2B19 Airplane Flight Manual CSP A–012, Revision 64B, dated December 8, 2015. The service information describes procedures to guide the crew to stabilize the airplane's airspeed and attitude for continued safe flight when a loss of all air data information has occurred in the flight deck. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

We estimate that this AD affects 500 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revision	1 work-hour × $85 per hour = $85	$0	$85	$42,500

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–18–03 Bombardier, Inc.: Amendment 39–18633; Docket No. FAA–2016–6414; Directorate Identifier 2015–NM–175–AD.

(a) Effective Date

This AD is effective October 6, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Reason

This AD was prompted by two in-service incidents of a loss of all air data information in the flight deck. We are issuing this AD to prevent loss of control when a loss of all air data information has occurred in the flight deck.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Airplane Flight Manual (AFM) Revision

Within 30 days after the effective date of this AD, revise the emergency procedures section of the AFM by incorporating Section 03–19, "Unreliable Airspeed", of Chapter 3, "Emergency Procedures," in the Bombardier CRJ Series Regional Jet Model CL–600–2B19 Airplane Flight Manual CSP A–012, Revision 64B, dated December 8, 2015.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(i) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2015–12, dated June 23, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6414.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Section 03–19, "Unreliable Airspeed," of Chapter 3, "Emergency Procedures," in the Bombardier CRJ Series Regional Jet Model CL–600–2B19 Airplane Flight Manual CSP A–012, Revision 64B, dated December 8, 2015.

(ii) Reserved.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com*; Internet *http://www.bombardier.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on August 19, 2016.

Dorr M. Anderson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–20826 Filed 8–31–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 730, 732, 734, 736, 738, 740, 742, 743, 746, 747, 748, 750, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, and 774

[Docket No. 160808698–6698–01]

RIN 0694–AH09

Updated Statements of Legal Authority for the Export Administration Regulations

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule updates the Code of Federal Regulations (CFR) legal authority paragraphs in the Export Administration Regulations (EAR) to cite the most recent Presidential notice extending an emergency declared pursuant to the International Emergency Economic Powers Act. This is a procedural rule that only updates authority paragraphs of the EAR. It does not alter any right, obligation or prohibition that applies to any person under the EAR.

DATES: The rule is effective September 1, 2016.

FOR FURTHER INFORMATION CONTACT: William Arvin, Regulatory Policy Division, Bureau of Industry and Security, Telephone: (202) 482–2440.

SUPPLEMENTARY INFORMATION:

Background

Authority for all parts of the EAR other than part 745 rests, in part, on Executive Order 13222 of August 17, 2001—National Emergency with Respect to Export Control Regulations, 66 FR 44025, 3 CFR, 2001 Comp., p. 783 and on annual notices extending the emergency declared in that executive order. This rule revises the authority paragraphs for the affected parts of the EAR to cite the most recent such notice, which the President signed on August 4, 2016.

This rule is purely procedural and makes no changes other than to revise CFR authority paragraphs for the purpose of making the authority citations current. It does not change the text of any section of the EAR, nor does it alter any right, obligation or prohibition that applies to any person under the EAR.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory

alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). This rule does not impose any regulatory burden on the public and is consistent with the goals of Executive Order 13563. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule does not involve any collection of information.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. The Department finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because they are unnecessary. This rule only updates legal authority citations. It clarifies information and is non-discretionary. This rule does not alter any right, obligation or prohibition that applies to any person under the EAR. Because these revisions are not substantive changes, it is unnecessary to provide notice and opportunity for public comment. In addition, the 30-day delay in effectiveness otherwise required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule. Because neither the Administrative Procedure Act nor any other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no Final Regulatory Flexibility Analysis is required and none has been prepared.

List of Subjects

15 CFR Part 730

Administrative practice and procedure, Advisory committees, Exports, Reporting and recordkeeping requirements, Strategic and critical materials.

15 CFR Parts 732, 740, 748, 750, and 758

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

15 CFR Parts 736, 738, 770, and 772

Exports.

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 743

Administrative practice and procedure, Reporting and recordkeeping requirements.

15 CFR Parts 746 and 774

Exports, Reporting and recordkeeping requirements.

15 CFR Part 747

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 754

Agricultural commodities, Exports, Forests and forest products, Horses, Petroleum, Reporting and recordkeeping requirements.

15 CFR Part 756

Administrative practice and procedure, Exports, Penalties.

15 CFR Part 760

Boycotts, Exports, Reporting and recordkeeping requirements.

15 CFR Part 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Reporting and recordkeeping requirements.

15 CFR Part 764

Administrative practice and procedure, Exports, Law enforcement, Penalties.

15 CFR Part 766

Administrative practice and procedure, Confidential business information, Exports, Law enforcement, Penalties.

15 CFR Part 768

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements, Science and technology.

Accordingly, parts 730, 732, 734, 736, 738, 740, 742, 743, 746, 747, 748, 750, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772 and 774 of the EAR (15 CFR parts 730–774) are amended as follows:

PART 730—[AMENDED]

■ 1. The authority citation for 15 CFR part 730 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; ; 15 U.S.C. 1824a; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p. 133; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 179; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 12981, 60 FR 62981, 3 CFR, 1995 Comp., p. 419; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of September 18, 2015, 80 FR 57281 (September 22, 2015); Notice of November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of January 20, 2016, 81 FR 3937 (January 22, 2016); Notice of May 3, 2016, 81 FR 27293 (May 5, 2016); Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 732—[AMENDED]

■ 2. The authority citation for 15 CFR part 732 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 734—[AMENDED]

■ 3. The authority citation for 15 CFR part 734 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 736—[AMENDED]

■ 4. The authority citation for 15 CFR part 736 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 2151 note; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Notice of November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of May 3, 2016, 81 FR 27293 (May 5, 2016); Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 738—[AMENDED]

■ 5. The authority citation for 15 CFR part 738 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824a; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 740—[AMENDED]

■ 6. The authority citation for 15 CFR part 740 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 742—[AMENDED]

■ 7. The authority citation for 15 CFR part 742 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 743—[AMENDED]

■ 8. The authority citation for 15 CFR part 743 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 746—[AMENDED]

■ 9. The authority citation for 15 CFR part 746 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 287c; Sec 1503, Pub. L. 108–11, 117 Stat. 559; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Presidential Determination 2007–7, 72 FR 1899, 3 CFR, 2006 Comp., p. 325; Notice of May 3, 2016, 81 FR 27293 (May 5, 2016); Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 747—[AMENDED]

■ 10. The authority citation for 15 CFR part 747 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 748—[AMENDED]

■ 11. The authority citation for 15 CFR part 748 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 750—[AMENDED]

■ 12. The authority citation for 15 CFR part 750 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2013 Comp., p. 223; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 754—[AMENDED]

■ 13. The authority citation for 15 CFR part 754 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 15 U.S.C. 1824a; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 756—[AMENDED]

■ 14. The authority citation for 15 CFR part 756 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 758—[AMENDED]

■ 15. The authority citation for 15 CFR part 758 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 760—[AMENDED]

■ 16. The authority citation for 15 CFR part 760 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 762—[AMENDED]

■ 17. The authority citation for 15 CFR part 762 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 764—[AMENDED]

■ 18. The authority citation for 15 CFR part 764 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 766—[AMENDED]

■ 19. The authority citation for 15 CFR part 766 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 768—[AMENDED]

■ 20. The authority citation for 15 CFR part 768 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 770—[AMENDED]

■ 21. The authority citation for 15 CFR part 770 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 772—[AMENDED]

■ 22. The authority citation for 15 CFR part 772 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

PART 774—[AMENDED]

■ 23. The authority citation for 15 CFR part 774 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824a; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

Dated: August 26, 2016.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2016–21031 Filed 8–31–16; 8:45 am]

BILLING CODE 3510–33–P

FEDERAL TRADE COMMISSION

16 CFR Part 803

Premerger Notification; Reporting and Waiting Period Requirements

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending the Hart-Scott-Rodino (“HSR”) Premerger Notification Rules (the “Rules”) that require the parties to certain mergers and acquisitions to file reports with the Federal Trade Commission (“the Commission” or “FTC”) and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (“the Assistant Attorney General” or “DOJ”) (together the “Antitrust Agencies” or “Agencies”) and to wait a specified period of time before consummating such transactions. These amendments update the Rules to allow for submission of the Premerger Notification and Report Form (“Form”) and accompanying documents (together the “HSR Filing”) on digital video/versatile disc (“DVD”), and clarify the Instructions to the Form.

DATES: Effective September 1, 2016.

FOR FURTHER INFORMATION CONTACT: Robert L. Jones, Assistant Director, Premerger Notification Office, Bureau of Competition, Room 5301, Federal Trade Commission, 400 7th Street SW., Washington, DC 20024. Telephone: (202) 326–3100, Email: *rjones@ftc.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

Section 7A of the Clayton Act (the “Act”) requires the parties to certain mergers or acquisitions to file with the Commission and DOJ to allow the Agencies to conduct their initial review of a proposed transaction’s competitive impact and requires the parties to wait a specified period of time before consummating such transactions. The reporting requirement and the waiting period that it triggers are intended to enable the Antitrust Agencies to determine whether a proposed merger or acquisition may violate the antitrust laws if consummated and, when appropriate, to seek a preliminary injunction in federal court to prevent consummation, pursuant to Section 7 of the Act.

Section 7A(d)(1) of the Act, 15 U.S.C. 18a(d)(1), directs the Commission, with the concurrence of the Assistant Attorney General, in accordance with the Administrative Procedure Act, 5 U.S.C. 553, to require that premerger notification be in such form and contain such information and documentary material as may be necessary and appropriate to determine whether the proposed transaction may, if consummated, violate the antitrust laws. Section 7A(d)(2) of the Act, 15 U.S.C. 18a(d)(2), grants the Commission, with the concurrence of the Assistant Attorney General, in accordance with 5 U.S.C. 553, the authority to define the terms used in the Act and prescribe such other rules as may be necessary and appropriate to carry out the purposes of Section 7A.

Pursuant to that authority, the Commission, with the concurrence of the Assistant Attorney General, developed the Rules, codified in 16 CFR parts 801, 802 and 803, and the Form and its associated Instructions, codified at part 803—appendix, to govern the form of premerger notifications to be provided by merging parties.

HSR Filings provide the Agencies with the information and documentary material necessary for an initial evaluation of the potential anticompetitive impact of significant mergers, acquisitions and certain similar transactions. Currently, all HSR Filings are submitted in paper. Through these amendments to the Rules, the Agencies will allow the submission of HSR Filings digitally on DVD (“DVD filings”). The acceptance of DVD filings requires certain conforming changes to the Instructions to the Form, so the Commission is also taking this opportunity to clarify the Instructions and make them easier to use.

Statement of Basis and Purpose for the Commission’s Revision of Its Premerger Notification Form, Instructions and Rules

Since the inception of the HSR program, the HSR Form and its attachments have been submitted in paper. In 2006, an electronic filing option was introduced that would allow filers to upload HSR Filings directly to the Agencies but that option failed to gain traction due to the limitations of the underlying technology, and it was soon discontinued. While the Agencies continue to explore an electronic filing option, they have decided to accept the submission of HSR Filings digitally on DVD. Accordingly, the Commission amends part 803 to delete references to the discontinued electronic filing option and revises these sections and the Instructions to the Form found in the appendix to part 803 to allow for DVD filings. Documents submitted by the parties with the filing are typically created and stored in digital format. Allowing parties to submit these digital files on electronic media will be more efficient and cost-effective, providing benefits to filing parties as well as the Agencies:

—Currently, those submitting HSR Filings must provide five paper copies of their Form, consisting of one original and one copy to the FTC, and three copies to DOJ, as well as one set of Documentary Attachments to each Agency. DVD filing will eliminate the expensive and time-consuming printing and duplication of documents, and allow for a more efficient filing process for filing parties.

—DVD filing will ease the physical delivery of voluminous HSR Filings to the Agencies, and facilitate the processing and review of filings within each Agency.

—DVD filing will allow for more efficient and less costly storage options for the Agencies

To provide maximum flexibility, filing parties will still have the traditional option of submitting HSR Filings in paper. Submitting an HSR Filing partially on DVD and partially in paper will not be permitted, however. Additionally, DVD submissions must be accompanied by original hard copies of the cover letter, certification and affidavit. The individual rule amendments associated with DVD filing are described more fully below.

Additionally, this rulemaking makes minor changes to the Form Instructions, many of which are unrelated to DVD filing, to reduce the burden on filing parties by making it easier to prepare the Form and comply with the HSR Filing requirements. These changes are not substantive in nature, and involve formatting, clarification, and simplification, as well as the deletion of immaterial language, with the goal of eliminating confusion for filing parties, as noted below.

Section 803.1 Notification and Report Form

The internet portal established in 2006, *www.hsr.gov,* to allow the electronic filing of HSR Filings is no longer technologically viable, and references to HSR.gov are removed from all Rules in which they appear and the Instructions.

Section 803.2 Instructions Applicable to Notification and Report Form

Section 803.2(e)(1) currently allows filers to forego the physical production of documents responsive to Item 4(b) by incorporating by reference documents previously filed with the Agencies in other transactions. The purpose of the rule was to avoid the costly duplication of responsive documents that were already in the possession of the Agencies. However, given § 803.2(e)(2), which allows parties to cite to an Internet address rather than provide hard copies of responsive documents, and the ease of copying documents onto a DVD without any expensive hard copy duplication, § 803.2 is being amended to delete § 803.2(e)(1). The existing, current, § 803.2(e)(2) will be renumbered to § 803.2(e), and the new § 803.2(e) has been amended for clarity.

To ensure the submission of compatible and readable electronic files, and to avoid problems and delays in processing HSR Filings, paragraph (f) of § 803.2 has been amended to require the use of specific formatting when submitting an HSR Filing on DVD, and to remove the reference to *www.hsr.gov.* The filing person is responsible for ensuring that the formatting requirements are observed and is subject to a notice of deficient filing if an unacceptable format is submitted. *See http://www.ftc.gov/enforcement/premerger-notification-program* for all current DVD Filing format requirements.

Section 803.3 Statement of Reasons for Noncompliance

Section 803.3 identifies the specific information that a filing person must provide when not responding to an Item on the Form. Paragraph (d) identifies the specifics of making a claim of privilege. Paragraph (d) is amended to require the titles and/or positions of the author of a document, the addressee, and all recipients of the document being withheld or redacted under a claim of privilege to enable the Agencies to better assess if the privilege applies.

Section 803.5 Affidavits Required

Section 803.5 requires an affidavit from the filing person attesting to the good faith intention of the person filing to proceed with the transaction. The affidavit must be attached to the Form at the time of filing. Paragraphs (a)(1), (a)(3), and (b) are amended to address inclusion of the affidavit when using the DVD filing option. If only a scanned version of the signed affidavit is available at the time of filing, it must be submitted on the DVD, and the original signed hard copy should be provided to the FTC as soon as possible.

Section 803.10 Running of Time

Persons required by the Act to submit HSR Filings must comply with specified statutory waiting periods before consummating the transaction. Section 803.10(c)(1)(i) is amended to define the "date of receipt and means of delivery" for purposes of determining when the waiting period begins for filings submitted on DVD. Delivery is to be effected by providing a DVD filing directly to the designated agency offices, by either hand or certified or registered mail, FedEx or UPS, during normal business hours.

References and paragraphs relating exclusively to "electronic" filing, as well as references to *www.hsr.gov,* have been deleted to avoid confusion, as the submission of filings electronically is not currently available.

Appendix to Part 803—Notification and Report Form and Instructions

A number of changes have been made to the Form Instructions, including changes unrelated to DVD filing, that are intended to clarify the Instructions and simplify the process of completing an HSR Form. Many of these changes involve new formatting or the substitution or deletion of a word, sentence or paragraph. The more significant changes entail the following amendments:

"Filing"

Accounts for the option of filing using a DVD, including specific formatting and submission requirements.

"Responses"

Clarifies that estimated financial information provided in the Form should include an "est." notation. Also specifies that additional pages should be included within the Form, not with the Documentary Attachments.

"Amount Paid"

Eliminates the requirement for an explanatory attachment regarding valuation.

"Payer Identification" and "Method of Payment"

Clarifies the process and requirements for submitting HSR filing fees.

"Item 1(g)"

Specifies that identification of a second contact person is required.

"Item 2(d)"

Clarifies how to respond where a transaction involves a mixed deal including voting securities, and/or non-corporate interests, and/or assets.

"Item 3(a)"

Reorganized and reworded for clarity. Clarifies that the description of the transaction should include a brief and simple description of the relevant assets or business operation(s) to be acquired. Deletes requirement for identification of expected dates of major events and deletes paragraph discussing acquisitions "from a holder other than the issuer or unincorporated entity" to reduce confusion.

"Item 3(b)"

Clarifies that agreement schedules are not required unless they represent some agreement between the parties (*e.g.,* a non-compete). Specifies that parties filing on a letter of intent may also submit a draft of the definitive agreement, if one exists.

"Item 4(b)"

Reorganized and amended to clarify the types of reports that are acceptable (*e.g.,* unaudited reports that are relied upon by the board are permitted), and from which entities reports are required.

"Items 4(c) and 4(d)"

Clarifies that document title, date, and author information is required for both 4(c) and 4(d) documents. Additionally amended to clarify the proper labeling convention for these documents, as well as the privilege log requirements outlined in § 803.3(d).

"Item 5(a)"

Simplifies the instructions.

"Item 6(b)"

Amended to clarify that only shareholders with 5% or more, but less than 50% must be identified.

"Item 6(c)"

Clarifies the instructions.

"Item 7"

Amended to clarify that all six-digit NAICS industry code overlaps must be reported, regardless of whether there is a ten-digit NAICS overlap.

"Item 7(b)"

Amended to clarify which entities should be listed.

"Item 7(c)"

Amended to change the order and organization of the NAICS codes for clarity, and renumbered the sub-sections. Amended to clarify that geographic information should be provided by state postal code abbreviations, including identifying the number of states reported, and that a response of "national" is acceptable in certain cases in lieu of listing every state.

"Item 7(c)(iv)"

Amended to more clearly state that county and city/town information is required for the specific NAICS codes outlined in this section. Reformatted for readability.

"Item 8"

Amended to clarify that Item 8 is related to codes reported in Item 5.

Administrative Procedure Act

The Commission finds good cause to adopt these changes without prior public comment. Under the Administrative Procedure Act ("APA"), notice and comment are not required "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(3)(B).

The Commission is updating the Rules, Form and Instructions to provide the option of submitting HSR Filings on DVD, and to clarify the Form Instructions. Paper copy submission will remain available. These amendments to the HSR Rules and Form fall within the category of rules covering agency procedure and practice that are exempt from the notice-and-comment requirements of the APA. *See* 5 U.S.C. 553(b)(A). Because the amendments are not substantive in nature, they are also not subject to the delayed effective date provisions of the APA. *See* 5 U.S.C. 553(d) (substantive rules may take effect no sooner than 30 days after publication).

For these reasons, the Commission finds that there is good cause for adopting this final rule as effective on September 1, 2016 without prior public comment.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that the agency conduct an initial and final regulatory analysis of the anticipated economic impact of the proposed amendments on small businesses, except where the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605. The Regulatory Flexibility Act requirements apply, however, only to rules or amendments that are subject to the notice-and-comment requirements of the APA. *See* 5 U.S.C. 603, 604. Because these amendments are exempt from those APA requirements, as noted earlier, they are also exempt from the Regulatory Flexibility Act requirements. In any event, because of the size of the transactions necessary to invoke an HSR Filing, the premerger notification rules rarely, if ever, affect small businesses. Indeed, amendments to the Act in 2001 were intended to reduce the burden of the premerger notification program by exempting all transactions valued at less than $50 million (as adjusted annually). Further, none of the proposed rule amendments expands the coverage of the premerger notification rules in a way that would affect small business. Accordingly, to the extent, if any, that the Regulatory Flexibility Act applies, the Commission certifies that these proposed rules will not have a significant economic impact on a substantial number of small entities. This document serves as notice of this certification to the Small Business Administration.

Paperwork Reduction Act

These changes do not contain any record maintenance, reporting or disclosure requirements that would constitute agency "collections of information" that would have to be submitted for clearance and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

List of Subjects in 16 CFR Part 803

Antitrust.

For the reasons stated in the preamble, the Federal Trade Commission amends 16 CFR part 803 as set forth below:

PART 803—TRANSMITTAL RULES

■ 1. The authority citation for part 803 continues to read as follows:

Authority: 15 U.S.C. 18a(d).

■ 2. Amend § 803.1 by revising paragraph (a) to read as follows:

§ 803.1 Notification and Report Form.

(a) The notification required by the act shall be the Notification and Report Form set forth in the appendix to this part, as amended from time to time. All acquiring and acquired persons required to file notification by the act and these rules shall do so by completing and filing the Notification and Report Form, in accordance with the instructions thereon and these rules. The current version of the Form can be obtained at *http://www.ftc.gov.*

* * * * *

■ 3. Amend § 803.2 by revising paragraphs (e) and (f) to read as follows:

§ 803.2 Instructions applicable to Notification and Report Form.

* * * * *

(e) For documents required by item 4(b) of the Notification and Report Form, a person filing the notification may, instead of submitting a document, provide a cite to an operative Internet address directly linking to the document, if the linked document is complete and payment is not required to access the document. If an Internet address becomes inoperative during the waiting period, or the document is otherwise rendered inaccessible or incomplete, upon notification by the Commission or Assistant Attorney General, the parties must make the document available to the agencies by either referencing an operative Internet address where the complete document may be accessed or by providing paper copies to the agencies as provided in § 803.10(c)(1) by 5 p.m. on the next regular business day. Failure to make the document available, by the Internet or by providing paper copies, by 5 p.m. on the next regular business day, will result in notice of a deficient filing pursuant to § 803.10(c)(2).

(f) Filings made via DVD must comply with all format requirements set forth at the Premerger Notification Office pages at *http://www.ftc.gov.* The use of any format not specified as acceptable, or any other failure to comply with the applicable format requirements, shall render the entire filing deficient within the meaning of § 803.10(c)(2).

■ 4. Amend § 803.3 by revising paragraph (d) to read as follows:

§ 803.3 Statement of reasons for noncompliance.

* * * * *

(d) Where noncompliance is based on a claim of privilege, a statement of the claim of privilege and all facts relied on in support thereof, including the identity of each document, its author, the author's title/position, addressee, the addressee's title/position, date, subject matter, all recipients of the original and of any copies, the recipients' titles/positions, the document's present location, and who has control of it.

■ 5. Amend § 803.5 by revising paragraphs (a)(1) introductory text, (a)(3), and (b) to read as follows:

§ 803.5 Affidavits required.

(a)(1) *Section 801.30 acquisitions.* For acquisitions to which § 801.30 applies, the notification required by the act from each acquiring person shall contain an affidavit, attached to the front of the notification, or with the DVD submission, attesting that the issuer whose voting securities are to be acquired has received notice in writing by certified or registered mail, by wire or by hand delivery, at its principal executive offices, of:

* * * * *

(3) The affidavit required by this paragraph must have attached to it a copy of the written notice received by the acquired person pursuant to paragraph (a)(1) of this section. For DVD filings, the written notice (in a form specified in the instructions) must be included on the DVD.

(b) *Non-section 801.30 acquisitions.* For acquisitions to which § 801.30 does not apply, the notification required by the act shall contain an affidavit, attached to the front of the notification, or with the DVD submission, attesting that a contract, agreement in principle or letter of intent to merge or acquire has been executed, and further attesting to the good faith intention of the person filing notification to complete the transaction.

■ 6. Amend § 803.10 by revising paragraph (c)(1)(i), removing paragraphs (c)(1)(ii) and (iii), and redesignating paragraph (c)(1)(iv) as paragraph (c)(1)(ii) to read as follows:

§ 803.10 Running of time.

* * * * *

(c)(1) * * *

(i) For paper copy filings and DVD filings, the date of receipt shall be the date on which delivery is effected to the designated offices (Premerger Notification Office, Federal Trade Commission, Room 5301, 400 7th Street SW., Washington, DC 20024, and Director of Civil Enforcement, Office of Operations, Antitrust Division, Department of Justice, 950 Pennsylvania Avenue NW., Room #3335, Washington, DC 20530) during normal business hours. Delivery should be effected directly to the designated offices, either by hand or by certified or registered mail (including FedEx and UPS). In the event one or both of the delivery sites are unavailable, the FTC and DOJ may designate alternate sites for delivery of the filing. Notification of the alternate delivery sites will normally be made through a press release and, if possible, on the *http://www.ftc.gov* Web site.

* * * * *

■ 7. Amend the appendix to part 803 by revising the Instructions to the Form to read as follows:

Appendix to Part 803—Notification and Report Form for Certain Mergers and Acquisitions

* * * * *

BILLING CODE 6750–01–P

ANTITRUST IMPROVEMENTS ACT NOTIFICATION AND REPORT FORM
for Certain Mergers and Acquisitions

INSTRUCTIONS **OMB: 3084-0005**

GENERAL

The Notification and Report Form ("the Form") is required to be submitted pursuant to § 803.1(a) of the premerger notification rules, 16 CFR Parts 801-803 ("the Rules"). These instructions specify the information that must be provided in response to the items on the Form.

Information
The central office for information and assistance concerning the Form and the Rules is:

Premerger Notification Office
Federal Trade Commission, Room 5301
400 7th Street, S.W.
Washington, D.C. 20024
Phone: (202) 326-3100

Copies of the Form, Instructions and Rules as well as information to assist in completing the Form are available at the PNO website.

Definitions
The definitions used in this Form are set forth in the Rules. See Statute, Rules and Formal Interpretations for copies of the Hart-Scott-Rodino Act ("the Act"), the Rules, and the Federal Register Notices issuing the Rules and Rule amendments ("Statements of Basis and Purpose").

Filing
Parties should file the completed Form, together with all documentary attachments, with the Premerger Notification Office ("PNO") of the Federal Trade Commission ("FTC") and the Premerger Unit of the Antitrust Division of the Department of Justice ("DOJ") (together, "the Agencies"). Filers have the option of submitting a DVD filing or a paper filing. Filings should be submitted to:

Premerger Notification Office
Federal Trade Commission, Room 5301
400 7th Street, S.W.
Washington, D.C. 20024

and

Office of Operations, Premerger Unit
Antitrust Division, Department of Justice
950 Pennsylvania Avenue, N.W., Room #3335
Washington, D.C. 20530

(For FEDEX airbills to the Department of Justice, do not use the 20530 zip code; use zip code 20004.)

If one or both delivery sites are unavailable, the Agencies may announce alternate sites for delivery through the media and, if possible, at the PNO website.

The term "documentary attachments" refers only to materials submitted in response to Item 3(b), Item 4 and to submissions pursuant to § 803.1(b) of the Rules.

If submitting a DVD filing

1) Provide the FTC with:

TWO (2) DVDs, each containing the Form, affidavit, certification and all documentary attachments, along with the original hard copies of the cover letter, certification and affidavit.

2) Provide DOJ with:

TWO (2) DVDs containing the same content as above, along with **THREE** (3) hard copies of the cover letter.

The Form must be a searchable PDF document. All other files must be in searchable PDF or MS Excel spreadsheet format and saved in color, if applicable.

Label each DVD with the name of the person filing (i.e., the ultimate parent entity ("UPE"), see § 801.1(a)(3)), the name of a contact person and that person's phone number. Leave space on the DVD for the Agencies to write the assigned transaction number and date of receipt.

If submitting a paper filing

1) Provide the FTC with:

ONE (1) original and **ONE** (1) copy of the Form, certification page and affidavit, along with an original cover letter and **ONE** (1) set of documentary attachments.

2) Provide DOJ with:

TWO (2) copies of the Form, certification page and affidavit, along with **THREE** (3) copies of the cover letter, and **ONE** (1) set of documentary attachments.

If the DVD or files contain viruses, passwords, or are not readable, the filing will not be accepted and the waiting period will not start.

For further instructions on DVD filing and specific DVD requirements, go to HSR Resources on the PNO website.

Affidavits
Affidavit(s) are required by § 803.5 and must attest to the good faith of the persons filing to complete the transaction. Affidavits must be notarized or use the language found in 28 U.S.C. § 1746 relating to unsworn declarations under penalty of perjury. If an entity is filing on behalf of the acquiring or acquired person, the affidavit must still attest to the good faith of the UPE.

In non-§ 801.30 transactions, the affidavit(s) (submitted by both persons filing) must attest that a contract, agreement in principle or letter of intent to merge or acquire has been executed, and further attest to the good faith intention of the person filing notification to complete the transaction. (See § 803.5(b)).

In § 801.30 transactions, the affidavit (submitted only by the acquiring person) must attest:

1) that the issuer whose voting securities or the unincorporated entity whose non-corporate interests are to be acquired has received notice, as described below, from the acquiring person;

2) in the case of a tender offer, that the intention to make

the tender offer has been publicly announced; and

3) the good faith intention of the person filing notification to complete the transaction.

Acquiring persons in 801.30 transactions are required to submit a copy of the notice received by the acquired person pursuant to § 803.5(a)(3) along with the filing. This notice must include:

1) the identity of the acquiring person and the fact that the acquiring person intends to acquire voting securities of the issuer or non-corporate interests of the unincorporated entity;

2) the specific notification threshold that the acquiring person intends to meet or exceed in an acquisition of voting securities;

3) the fact that the acquisition may be subject to the Act, and that the acquiring person will file notification under the Act;

4) the anticipated date of receipt of such notification by the Agencies; and

5) the fact that the person within which the issuer or unincorporated entity is included may be required to file notification under the Act. (See § 803.5(a)).

Responses
Enter the name of the person filing notification in Item 1(a) on page 1 of the Form, and enter the same name and the date on which the Form is completed at the top of each page of the Form.

If there is insufficient room on the Form for a response to a particular item, attach "additional pages" behind that item on the Form. Filers must submit a complete set of additional pages within each copy of the Form.

Each additional page should identify, at the top of the page, the name of the person filing notification, the date on which the Form is completed and the item to which it is addressed.

Voluntary submissions pursuant to § 803.1(b) should be identified as V-1, V-2, etc.

If unable to answer any item fully, provide such information as is available and a statement of reasons for non-compliance as required by § 803.3. If exact answers to any item cannot be given, enter best estimates and indicate the source or basis of such estimates. Add an endnote with the notation "est." to any item where data are estimated.

All financial information should be expressed in millions of dollars rounded to the nearest one-tenth of a million dollars.

Limited Response
The acquired person should limit its response:

1) in the case of an acquisition of assets, to the assets being acquired;

2) in the case of an acquisition of voting securities, to the issuer(s) whose voting securities are being acquired and all entities controlled by such acquired entities; and

3) in the case of an acquisition of non-corporate interests, to the unincorporated entity(s) whose non-corporate interests are being acquired and all entities controlled by such acquired entities.

Separate responses may be required where a person is both acquiring and acquired. (See § 803.2(b)).

Information need not be supplied regarding assets, voting securities or non-corporate interests currently being acquired when their acquisition is exempt under the Act or Rules. (See § 803.2(c)).

Year
All references to "year" refer to calendar year. If data are not available on a calendar year basis, supply the requested data for the fiscal year reporting period that most nearly corresponds to the calendar year specified. References to "most recent year" mean the most recent calendar or fiscal year for which the requested information is available.

North American Industry Classification System (NAICS) Data
The Form requests "dollar revenues" categorized by NAICS codes for non-manufactured and manufactured products with respect to operations conducted within the United States, and for products manufactured outside of the United States and sold into the United States. (See § 803.2(d)). Filing persons must submit data at the 6-digit NAICS national industry code level to reflect non-manufacturing dollar revenues. To the extent that dollar revenues are derived from manufacturing operations (NAICS Sectors 31-33), filing persons must only submit data at the 10-digit NAICS product code levels, not the 6-digit level. (See Item 5 below).

In reporting information by 6-digit NAICS industry code, refer to the most recent *North American Industry Classification System - United States* published by the Executive Office of the President, Office of Management and Budget. In reporting information by 10-digit NAICS product code, refer to the most recent *Numerical List of Manufactured and Mineral Products* published by the Bureau of the Census. Information regarding NAICS is available at www.census.gov. This site also provides assistance in choosing the proper code(s) for reporting in Item 5 of the Form.

Thresholds
Filing fee and notification thresholds are adjusted annually pursuant to 15 U.S.C. § 18A(a)(2)(A) based on the change in gross national product, in accordance with 15 U.S.C. § 19(a)(5). The current threshold values can be found at Current Filing Thresholds.

END OF GENERAL SECTION

Online Style Sheet for the Form

Online Tips for the Form

THE FORM - ITEM BY ITEM

Fee Information
The fee for filing the Form is based on the aggregate total value of assets, voting securities and controlling non-corporate interests to be held as a result of the acquisition:

Value of assets, voting securities and controlling non-corporate interests to be held	Fee Amount
greater than $50 million (as adjusted) but less than $100 million (as adjusted)	$45,000
$100 million (as adjusted) or greater but less than $500 million (as adjusted)	$125,000
$500 million or greater (as adjusted)	$280,000

For current thresholds and fee information, see the PNO website.

Amount Paid
Indicate the amount of the filing fee paid. This amount should be net of any banking or financial institution charges.

Payer Identification
Provide the payer's name and 9-digit Taxpayer Identification Number (TIN). If the payer is a natural person with no TIN, provide the natural person's social security number.

Method of Payment
Check the box indicating the method of payment. If paying by electronic wire transfer (EWT), provide the EWT confirmation number and the name of the financial institution from which the EWT is being sent. If the EWT confirmation number is not available at the time of filing, provide this information to the PNO within two business days of filing.

In order for the FTC to track payment, the payer must provide information required by the Fedwire Instructions to the financial institution initiating the EWT. A template of the Fedwire Instructions is available at the PNO website on the Filing Fee Information page.

If paying by certified check, include the check in the filing, attached to the cover letter.

Corrective Filings
Put an X in the appropriate box to indicate whether the notification is a corrective filing (i.e., an acquisition that has already taken place without filing, in violation of the statute). See Procedures for Submitting Post-Consummation Filings for more information on how to proceed in the case of a corrective filing.

Cash Tender Offer
Put an X in the appropriate box to indicate whether the acquisition is a cash tender offer.

Bankruptcy
Put an X in the appropriate box to indicate whether the acquired person's filing is being made by a trustee in bankruptcy or by a debtor-in-possession for a transaction that is subject to Section 363(b) of the Bankruptcy Code (11 U.S.C. § 363).

Early Termination
Put an X in the "yes" box to request early termination of the waiting period. Notification of each grant of early termination will be published in the Federal Register, as required by 15 U.S.C. § 18A(b)(2), and on the PNO website. Note that if either party in any transaction requests early termination, it may be granted and published.

Transactions Subject to International Antitrust Notification
If, to the knowledge or belief of the filing person at the time of filing, a non-U.S. antitrust or competition authority has been or will be notified of the proposed transaction, list the name of each such authority. Response to this item is voluntary.

Index of Hyperlinks in these Instructions:

PNO website: https://www.ftc.gov/enforcement/premerger-notification-program

Statute, Rules and Formal Interpretations: https://www.ftc.gov/enforcement/premerger-notification-program/statute-rules-formal-interpretations

HSR Resources: https://www.ftc.gov/enforcement/premerger-notification-program/hsr-resources

Current Filing Thresholds: https://www.ftc.gov/enforcement/premerger-notification-program/current-thresholds

Online Style Sheet for the Form: https://www.ftc.gov/enforcement/premerger-notification-program/form-instructions/style-sheet

Online Tips for the Form: https://www.ftc.gov/system/files/attachments/form-instructions/hsr_form_tip_sheet_1.0.5.pdf

Filing Fee Information: https://www.ftc.gov/enforcement/premerger-notification-program/filing-fee-information

Procedures for Submitting Post-Consummation Filings: https://www.ftc.gov/enforcement/premerger-notification-program/post-consummation-filings-hsr-violations

Online Tips for Item 4(c): https://www.ftc.gov/sites/default/files/attachments/hsr-resources/4ctipsheet.pdf

Online Tips for Item 4(d): https://www.ftc.gov/enforcement/premerger-notification-program/hsr-resources/pno-guidance-item-4d

Online Tips for Item 5: https://www.ftc.gov/enforcement/premerger-notification-program/hsr-resources/reporting-revenues-item-5

Online Tips for Item 6: https://www.ftc.gov/enforcement/premerger-notification-program/hsr-resources/tips-completing-item-6-hsr-form

Online Tips for Item 7: https://www.ftc.gov/enforcement/premerger-notification-program/hsr-resources/tips-completing-item-7-hsr-form

ITEM 1

Item 1(a)
Provide the name, headquarters address and website (if one exists) of the person filing notification. The name of the person filing is the name of the UPE. (See § 801.1(a)(3)).

Item 1(b)
Indicate whether the person filing notification is an acquiring person, an acquired person, or both an acquiring and acquired person. (See § 801.2).

Item 1(c)
Put an X in the appropriate box to indicate whether the person in Item 1(a) is a corporation, unincorporated entity, natural person, or other (specify). (See § 801.1).

Item 1(d)
Put an X in the appropriate box to indicate whether data furnished in Item 5 is by calendar year or fiscal year. If fiscal year, specify the time period.

Item 1(e)
Put an X in the appropriate box to indicate if the Form is being filed on behalf of the UPE by another entity within the same person authorized by it to file notification on its behalf pursuant to § 803.2(a), or if the Form is being filed pursuant to § 803.4 on behalf of a foreign person. Then provide the name and mailing address of the entity filing notification on behalf of the filing person named in Item 1(a) of the Form.

Item 1(f)
For the acquiring person, if an entity other than the UPE listed in Item 1(a) is making the acquisition, provide the name and mailing address of that entity and the percentage of its voting securities or non-corporate interests held directly or indirectly by the person named in Item 1(a) above.

For the acquired person, if the assets, voting securities or non-corporate interests of an entity other than the UPE listed in Item 1(a) are being acquired, provide the name and mailing address of that entity and the percentage of its voting securities or non-corporate interests held directly or indirectly by the person named in Item 1(a) above.

Item 1(g)
Provide the name and title, firm name, address, telephone number, fax number and e-mail address of the primary and secondary individuals to contact regarding the Form. A second contact person is required. (See § 803.20(b)(2)(ii)).

Item 1(h)
Foreign filing persons must provide the name, firm name, address, telephone number, fax number and e-mail address of an individual located in the United States designated for the limited purpose of receiving notice of the issuance of a request for additional information or documentary material. (See § 803.20(b)(2)(iii)).

END OF ITEM 1

ITEM 2

Item 2(a)
Provide the names of all UPEs of acquiring and acquired persons that are parties to the transaction, whether or not they are required to file notification. If a person is not required to file, check the non-reportable box.

Item 2(b)
Put an X in all the boxes that apply to the transaction.

Item 2(c)
This item should only be completed by the acquiring person where voting securities are being acquired. If more than voting securities are being acquired, respond to this item only regarding voting securities. Put an X in the box to indicate the highest applicable threshold for which notification is being filed: $50 million (as adjusted), $100 million (as adjusted), $500 million (as adjusted), 25% (if the value of voting securities to be held is greater than $1 billion, as adjusted), or 50%. (See § 801.1(h)).

Note that the 50% notification threshold is the highest threshold and should be used for any acquisition of 50% or more of the voting securities of an issuer, regardless of the value of the voting securities. For instance, an acquisition of 100% of the voting securities of an issuer, valued in excess of $500 million (as adjusted) would cross the 50% notification threshold, not the $500 million (as adjusted) threshold.

Item 2(d)
Provide the requested information on assets, voting securities and non-corporate interests. If a combination of assets, voting securities and/or non-corporate interests is being acquired and allocation is not possible, note such information in an endnote.

For determining percentage of voting securities, evaluate total voting power per § 801.12.

For determining percentage of non-corporate interests, evaluate the economic interests per § 801.1(b)(1)(ii).

Item 2(d)(i)
State the value of voting securities already held. (See § 801.10).

Item 2(d)(ii)
State the percentage of voting securities already held. (See § 801.12).

Item 2(d)(iii)
State the total value of voting securities to be held as a result of the acquisition. (See § 801.10).

Item 2(d)(iv)
State the total percentage of voting securities to be held as a result of the acquisition. (See § 801.12).

Item 2(d)(v)
State the value of non-corporate interests already held. (See § 801.10).

Item 2(d)(vi)
State the percentage of non-corporate interests already held. (See § 801.1(b)(1)(ii)).

Item 2(d)(vii)
State the total value of non-corporate interests to be held as a result of the acquisition. (See § 801.10).

ITEM 2 cont.

Item 2(d)(viii)
State the total percentage of non-corporate interests to be held as a result of the acquisition. (See §§ 801.10 and 801.1(b)(1)(ii)).

Item 2(d)(ix)
State the value of assets to be held as a result of the acquisition. (See § 801.10).

Item 2(d)(x)
State the aggregate total value of assets, voting securities and non-corporate interests of the acquired person to be held as a result of the acquisition. (See §§ 801.10, 801.12, 801.13 and 801.14).

END OF ITEM 2

ITEM 3

Item 3(a)
At the top of Item 3(a), list the name and mailing address of each acquiring and acquired person, and acquiring and acquired entity, whether or not required to file notification.

In the Transaction Description section, briefly describe the transaction, indicating whether assets, voting securities or non-corporate interests (or some combination) are to be acquired. Describe the business operation(s) being acquired. If assets, describe the assets and whether they comprise a business operation. Also, indicate what consideration will be received by each party and the scheduled consummation date of the transaction.

If there are additional filings, such as shareholder backside filings, associated with the transaction, identify those. Also, identify any special circumstances that apply to the filing, such as whether part of the transaction is exempt under one of the exemptions found in Part 802.

Item 3(b)
Furnish copies of all documents that constitute the agreement(s) among the acquiring person(s) and the person(s) whose assets, voting securities or non-corporate interests are to be acquired. Also furnish agreements not to compete and other agreements between the parties. Do not submit schedules and the like unless they contain agreements not to compete, other agreements between the parties, or other important terms of the transaction. For purposes of Item 3(b), responsive documents must be submitted; identifying an internet address or providing a link is not sufficient.

Documents that constitute the agreement(s) (e.g., a Letter of Intent, Merger Agreement, Purchase and Sale Agreement) must be executed, while agreements not to compete may be provided in draft form if that is the most recent version.

If parties are filing on an executed Letter of Intent, they may also submit a draft of the definitive agreement, if one exists.

Note that transactions subject to § 801.30 and bankruptcies under 11 U.S.C. § 363 do not require an executed agreement or letter of intent. For bankruptcies, provide the order from the bankruptcy court.

END OF ITEM 3

ITEM 4

Item 4(a)
Provide the names of all entities within the person filing notification, including the UPE, that file annual reports (Form 10-K or Form 20-F) with the United States Securities and Exchange Commission, and provide the Central Index Key (CIK) number for each entity.

Item 4(b)
Provide the most recent annual reports and/or annual audit reports (or, if audited is unavailable, unaudited) of the person filing notification.

The acquiring person should also provide the most recent reports of the acquiring entity(s) and any controlled entity whose dollar revenues contribute to an overlap reported in Item 7.

The acquired person should also provide the most recent reports of the acquired entity(s).

Natural persons need only provide the most recent reports for the highest level entity(s) they control. Do not provide personal balance sheets or tax returns.

If the most recent reports do not show sales or assets sufficient to meet the size of person test, and the size of person test is relevant given the size of the transaction, the filing person must stipulate in Item 4(b) that it meets the test.

Note that the person filing notification may incorporate a document by reference to an internet address directly linking to the document. (See § 803.2(e)).

Items 4(c) and 4(d)
For each document responsive to Items 4(c) and 4(d), provide the:

1) document's title;
2) date of preparation; and
3) name and title of each individual who prepared the document.

If a specific date is not available, indicate the month and year the document was prepared.

If a large group of people prepared the document, list all the authors and their titles, identifying the principal authors.

Alternatively, it is acceptable to indicate that the document was prepared under the supervision of the lead author and to provide the name and title of that author. If a third party prepared the document, the date of preparation and the name of the third party will suffice.

Numbering
Number each document provided in response to Items 4(c) and 4(d). Number 4(c) documents 4(c)-1, 4(c)-2, 4(c)-3, etc. Likewise, number 4(d) documents 4(d)-1, 4(d)-2, 4(d)-3, etc., regardless of the three sub-categories within Item 4(d). If a document is responsive to both 4(c) and 4(d), there is no need to cross-reference.

When submitting a document responsive to both 4(c) and 4(d), list it only once, under 4(c) or 4(d).

Privilege
Note that if the filing person withholds or redacts portions of any document responsive to Items 4(c) and 4(d) based on a claim of privilege, the person must provide a statement of reasons for non-compliance (a "privilege log") detailing the claim of privilege for each withheld or redacted document. (See § 803.3(d)).

For each document, include the:

1) title of the document;
2) its author;
3) author's title/position;
4) addressee;
5) addressee's title/position;
6) date;
7) subject matter;
8) all recipients of the original and any copies;
9) recipients' titles/positions;
10) document's present location; and
11) who has control over it.

Additionally, the filing person must state the factual basis supporting the privilege claim in sufficient detail to enable staff to assess the validity of the claim for each document without disclosing the protected information.

If a privileged document was circulated to a group, such as the Board or an investment committee, the name of the group is sufficient, but the filing person should be prepared to disclose the names and titles/positions of the individual group members, if requested. If the claim of privilege is based on advice from outside counsel, the name of the outside counsel providing the advice and the related law firm must be provided. If several lawyers participated in providing advice, identifying lead counsel is sufficient. In identifying who controls a document, the name of the law firm is sufficient.

When creating a privilege log, use a separate numbering system for withheld documents, such as P-1, P-2, etc. Redacted documents should also be listed on a separate log that complies with § 803.3(d).

Item 4(c)
Provide all studies, surveys, analyses and reports which were prepared by or for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) for the purpose of evaluating or analyzing the acquisition with respect to market shares, competition, competitors, markets, potential for sales growth or expansion into product or geographic markets.

Item 4(d)
Item 4(d)(i)
Provide all Confidential Information Memoranda prepared by or for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) of the UPE of the acquiring or acquired person or of the acquiring or acquired entity(s) that specifically relate to the sale of the acquired entity(s)

or assets. If no such Confidential Information Memorandum exists, submit any document(s) given to any officer(s) or director(s) of the buyer meant to serve the function of a Confidential Information Memorandum. This does not include ordinary course documents and/or financial data shared in the course of due diligence, except to the extent that such materials served the purpose of a Confidential Information Memorandum when no such Confidential Information Memorandum exists. Documents responsive to this item are limited to those produced up to one year before the date of filing.

Item 4(d)(ii)
Provide all studies, surveys, analyses and reports prepared by investment bankers, consultants or other third party advisors ("third party advisors") for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) of the UPE of the acquiring or acquired person or of the acquiring or acquired entity(s) for the purpose of evaluating or analyzing market shares, competition, competitors, markets, potential for sales growth or expansion into product or geographic markets that specifically relate to the sale of the acquired entity(s) or assets. This item requires only materials developed by third party advisors during an engagement or for the purpose of seeking an engagement. Documents responsive to this item are limited to those produced up to one year before the date of filing.

Item 4(d)(iii)
Provide all studies, surveys, analyses and reports evaluating or analyzing synergies and/or efficiencies prepared by or for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) for the purpose of evaluating or analyzing the acquisition. Financial models without stated assumptions need not be provided in response to this item.

END OF ITEM 4

Tip for Item 4
If there is insufficient room on the Form for a response, attach "additional pages" behind that item on the Form. (See Responses on page II).

Online Tips for Item 4(c)

Online Tips for Item 4(d)

ITEMS 5 THROUGH 7

Limited response for acquired person. For Items 5 through 7, the acquired person should limit its response in the case of an acquisition of:

1) assets, to the assets to be acquired;
2) voting securities, to the issuer(s) whose voting securities are being acquired and all entities controlled by such issuer; and/or
3) non-corporate interests, to the unincorporated entity(s) being acquired and all entities controlled by such unincorporated entity(s).

A person filing as both acquiring and acquired persons may be required to provide a separate response to Items 5 through 7 in each capacity so that it can properly limit its response as an acquired person. (See §§ 803.2(b) and (c)).

ITEM 5

This item requests information by NAICS code regarding dollar revenues. (See NAICS Data section on page II). All persons must submit data on non-manufacturing dollar revenues at the 6-digit NAICS industry code level. To the extent that dollar revenues are derived from manufacturing operations (NAICS Sectors 31-33), only submit data at the 10-digit product code level (NAICS-based codes).

List all NAICS codes in ascending order.

Persons filing notification should include the total dollar revenues for all entities included within the person filing notification at the time the Form is prepared. If no dollar revenues are reported, check the "None" box and provide a brief explanation.

Item 5(a)
Provide 6-digit NAICS industry data concerning the aggregate U.S. operations of the person filing notification for the most recent year in all non-manufacturing NAICS Sectors in which the person engaged. If the dollar revenues for a non-manufacturing NAICS code totaled less than one million dollars in the most recent year, that code may be omitted from Item 5(a).

Provide 10-digit NAICS product code data for each product code within all manufacturing NAICS Sectors (31-33) in which the person engaged in the U.S., including dollar revenues for each product manufactured outside the U.S. but sold into the U.S. Sales of any manufactured product should be reported in a manufacturing code only, even if sold through a separate warehouse or retail establishment.

If such data have not been compiled for the most recent year, estimates of dollar revenues by 6-digit NAICS industry codes and 10-digit NAICS product codes may be provided.

Check the Overlap box for a NAICS code if both parties to the transaction generate dollar revenues in that NAICS code. If there is only a 6-digit overlap in a manufacturing code in Item 7, do not check the Overlap box for a related 10-digit code in Item 5.

Item 5(b)
Complete only if the acquisition is the formation of a joint venture corporation or unincorporated entity. (See §§ 801.40 and 801.50). If the acquisition is not the formation of a joint venture, check the "Not Applicable" box.

Item 5(b)(i)
List the contributions that each person forming the joint venture corporation or unincorporated entity has agreed to make, specifying when each contribution is to be made and the value of the contribution as agreed by the contributors.

Item 5(b)(ii)
Describe fully the consideration that each person forming the joint venture corporation or unincorporated entity will receive in exchange for its contribution(s).

Item 5(b)(iii)
Describe generally the business in which the joint venture corporation or unincorporated entity will engage, including its principal types of products or activities, and the geographic areas in which it will do business.

Item 5(b)(iv)
Identify each 6-digit NAICS industry code in which the joint venture corporation or unincorporated entity will derive dollar revenues. If the joint venture corporation or unincorporated entity will be engaged in manufacturing, also specify each 10-digit NAICS product code in which it will derive dollar revenues.

END OF ITEM 5

Tip for Item 5
Remember, all financial information should be expressed in millions of dollars, rounded to the nearest one-tenth of a million dollars.

Online Tips for Item 5

ITEM 6

An acquired person does not complete Item 6 if the transaction involves only the acquisition of assets. If the transaction involves a mix of assets along with voting securities and/or non-corporate interests, the acquired person must complete Item 6 as related to the voting securities and non-corporate interests.

Item 6(a)
Subsidiaries of filing person. List the name, city and state/country of all U.S. entities, and all foreign entities that have sales in or into the U.S., that are included within the person filing notification. Entities with total assets of less than $10 million may be omitted. Alternatively, the filing person may report all entities within it.

Item 6(b)
Minority shareholders. For the acquired entity(s) and for the acquiring entity(s) and its UPE or, in the case of natural persons, the top-level corporate or unincorporated entity(s) within that UPE, list the name and headquarters mailing address of each shareholder that holds 5% or more but less than 50% of the outstanding voting securities or non-corporate interests of the entity, and the percentage of voting securities or non-corporate interests held by that person. (See § 801.1(c))

For limited partnerships, only the general partner(s), regardless of percentage held, should be listed.

Item 6(c)
Minority holdings. Item 6(c) requires the disclosure of holdings of 5% or more but less than 50%, of any entity(s) that derives dollar revenues in any 6-digit NAICS code reported by the other person filing notification. Holdings in those entities that have total assets of less than $10 million may be omitted.

The acquiring person may rely on its regularly prepared financials that list its investments, and those of its associates that list their investments, to respond to Items 6(c)(i) and (ii), provided the financials are no more than three months old.

If NAICS codes are unavailable, holdings in entities that have operations in the same industry, based on the knowledge or belief of the acquiring person, should be listed. In responding to Items 6(c)(i) and 6(c)(ii), it is permissible for the acquiring person to list all entities in which it or its associate(s) holds 5% or more but less than 50% of the voting securities of any issuer or non-corporate interests of any unincorporated entity. Holdings in those entities that have total assets of less than $10 million may be omitted.

Item 6(c)(i)
Minority holdings of filing person. If the person filing notification holds 5% or more but less than 50% of the voting securities of any issuer or non-corporate interests of any unincorporated entity, list the issuer and percentage of voting securities held, or in the case of an unincorporated entity, list the unincorporated entity and the percentage of non-corporate interests held.

The acquiring person should limit its response, based on its knowledge or belief, to entities that derived dollar revenues in the most recent year from operations in industries within any 6-digit NAICS industry code in which the acquired entity(s) or assets also derived dollar revenues in the most recent year.

The acquired person should limit its response, based on its knowledge or belief, to entities that derive dollar revenues in the same 6-digit NAICS industry code as the acquiring person.

Item 6(c)(ii)
Minority holdings of associates.
This item should only be completed by the acquiring person.
Based on the knowledge or belief of the acquiring person, for each associate (see § 801.1(d)(2)) of the acquiring person holding:

1) 5% or more but less than 50% of the voting securities or non-corporate interests of the acquired entity(s); and/or

2) 5% or more but less than 50% of the voting securities of any issuer or non-corporate interests of any unincorporated entity that derived dollar revenues in the most recent year from operations in industries within any 6-digit NAICS industry code in which the acquired entity(s) or assets also derived dollar revenues in the most recent year;

list the associate, the issuer or unincorporated entity and the percentage held.

END OF ITEM 6

Tip for Item 6(c)
Remember, if NAICS codes are unavailable, holdings in entities that have operations in the same industry, based on the knowledge or belief of the acquiring person, should be listed.

Online Tips for Item 6

ITEM 7

If, to the knowledge or belief of the person filing notification, the acquiring person, or any associate (see § 801.1(d)(2)) of the acquiring person, derived any amount of dollar revenues (even if omitted from Item 5) in the most recent year from operations:

1) in industries within any 6-digit NAICS industry code in which any acquired entity that is a party to the acquisition also derived any amount of dollar revenues in the most recent year; or

2) in which a joint venture corporation or unincorporated entity will derive dollar revenues;

then for each such 6-digit NAICS industry code follow the instructions below for this section.

Note that if the acquired entity is a joint venture, the only overlaps that should be reported are those between the assets to be held by the joint venture and any assets of the acquiring person or its associates not contributed to the joint venture.

Item 7(a)
Industry Code Overlap Information
Provide the 6-digit NAICS industry code and description for the industry, and indicate whether the overlap is from the person, an associate or both.

Item 7(b)
Item 7(b)(i)
If the UPE of the other person(s) filing notification derived dollar revenues in the same 6-digit industry code(s) listed in Item 7(a), list the name of that UPE and the name of the entity(s) within that UPE that actually derived those dollar revenues, if different from the entity(s) listed in Item 3(a).

Item 7(b)(ii)
This item should only be completed by the acquiring person.
List the name of each associate of the acquiring person that also derived dollar revenues through a controlled operating company(s) in the 6-digit industry and, if different, the name of the entity(s) that actually derived those dollar revenues.

Item 7(c)
Geographic Market Information
Use the 2-digit postal codes for states and territories and provide the total number of states and territories at the end of the response.

Note that except in the case of those NAICS industries in the Sectors and Subsectors mentioned in Item 7(c)(iv), the person filing notification may respond with the word "national" if business is conducted in all 50 states.

Item 7(c)(i)
NAICS Sectors 31-33
For each 6-digit NAICS industry code within NAICS Sectors 31-33 (manufacturing industries) listed in Item 7(a), list the relevant geographic information in which, to the knowledge or belief of the person filing the notification, the products in that 6-digit NAICS industry code produced by the person filing notification are sold without a significant change in their form (whether they are sold by the person filing notification or by others to whom such products have been sold or resold). Except for industries covered by Item 7(c)(iv)(b), the relevant geographic information is all states or, if desired, portions thereof.

Item 7(c)(ii)
NAICS Sector 42
For each 6-digit NAICS industry code within NAICS Sector 42 (wholesale trade) listed in Item 7(a), list the states or, if desired, portions thereof in which the customers of the person filing notification are located.

Item 7(c)(iii)
NAICS Industry Group 5241
For each 6-digit NAICS industry code within NAICS Industry Group 5241 (insurance carriers) listed in Item 7(a), list the state(s) in which the person filing notification is licensed to write insurance.

Item 7(c)(iv)(a)
Other NAICS Sectors
For each 6-digit NAICS industry code listed in item 7(a) within the NAICS Sectors or Subsectors below, list the states or, if desired, portions thereof in which the person filing notification conducts such operations.

11	agriculture, forestry, fishing and hunting
21	mining
22	utilities
23	construction
48-49	transportation and warehousing
511	publishing industries
515	broadcasting
517	telecommunications
71	arts, entertainment and recreation

Item 7(c)(iv)(b)
For each 6-digit NAICS industry code listed in item 7(a) within the NAICS Sectors or Subsectors below, provide the address, arranged by state, county and city or town, of each establishment from which dollar revenues were derived in the most recent year by the person filing notification.

2123	nonmetallic mineral mining and quarrying
32512	industrial gases
32732	concrete
32733	concrete products
44-45	retail trade, except 442 (furniture and home furnishings stores), and 443 (electronics and appliance stores)
512	motion picture and sound recording industries
521	monetary authorities - central bank
522	credit intermediation and related activities
532	rental and leasing services
62	health care and social assistance
72	accommodations and food services, except 7212 (recreational vehicle parks and recreational camps), and 7213 (rooming and boarding houses)
811	repair and maintenance, except 8114 (personal and household goods repair and maintenance)
812	personal and laundry services

Item 7(c)(iv)(c)
For each 6-digit NAICS industry code listed in item 7(a) within the NAICS Sectors or Subsectors below, list the states or, if desired, portions thereof in which the person filing notification conducts such operations.

442	furniture and home furnishings stores
443	electronics and appliance stores
516	internet publishing & broadcasting
518	internet service providers
519	other information services
523	securities, commodity contracts and other financial investments and related activities
5242	insurance agencies and brokerages, and other insurance related activities
525	funds, trusts and other financial vehicles
53	real estate and rental and leasing
54	professional, scientific and technical services
55	management of companies and enterprises
56	administrative and support and waste management and remediation services
61	educational services
7212	recreational vehicle parks and recreational camps
7213	rooming and boarding houses
813	religious, grantmaking, civic, professional, and similar organizations
8114	personal and household goods repair and maintenance

Item 7(d)
This item should only be completed by the acquiring person.
Use the geographic markets listed in Items 7(c)(i) through 7(c)(iv) to respond to this item, providing the information for associates of the acquiring person. Provide separate responses for each associate of the acquiring person and, if different, the controlled operating company(s) that actually derived the dollar revenues.

END OF ITEM 7

Online Tips for Item 7

ITEM 8

This item should only be completed by the acquiring person. Determine each 6-digit NAICS industry code listed in Item 7(a), in which the acquiring person derived dollar revenues of $1 million or more in the most recent year and in which either:

1) the acquired entity derived dollar revenues of $1 million or more in the recent year (or in the case of the formation of a joint venture corporation or unincorporated entity, the joint venture corporation or unincorporated entity reasonably can be expected to derive dollar revenues of $1 million or more); or

2) in the case of acquired assets, to which dollar revenues of $1 million or more were attributable in the most recent year.

For each such 6-digit NAICS industry code, list all acquisitions of entities or assets deriving dollar revenues in that 6-digit NAICS industry code made by the acquiring person in the five years prior to the date of the instant filing, even if the transaction was non-reportable. List only acquisitions of 50% or more of the voting securities of an issuer or 50% or more of non-corporate interests of an unincorporated entity that had annual net sales or total assets greater than $10 million in the year prior to the acquisition, and any acquisitions of assets valued at or above the statutory size-of-transaction test at the time of their acquisition.

This item pertains only to acquisitions of U.S. entities/assets and foreign entities/assets with sales in or into the U.S., i.e., with dollar revenues that would be reported in Item 5.

For each such acquisition, supply:

1) the 6-digit NAICS industry code (by number and description) identified above in which the acquired entity derived dollar revenues;

2) the name of the entity from which the assets, voting securities or non-corporate interests were acquired;

3) the headquarters address of that entity prior to the acquisition;

4) whether assets, voting securities or non-corporate interests were acquired; and

5) the consummation date of the acquisition.

END OF ITEM 8

CERTIFICATION

See § 803.6 for requirements.

The certification must be notarized or use the language found in 28 U.S.C. § 1746 relating to unsworn declarations under penalty of perjury.

PRIVACY ACT STATEMENT

Section 18a(a) of Title 15 of the U.S. Code authorizes the collection of this information. Our authority to collect Social Security numbers is 31 U.S.C. § 7701. The primary use of information submitted on this Form is to determine whether the reported merger or acquisition may violate the antitrust laws. Taxpayer information is collected, used, and may be shared with other agencies and contractors for payment processing, debt collection and reporting purposes. Furnishing the information on the Form is voluntary.

Consummation of an acquisition required to be reported by the statute cited above without having provided this information may, however, render a person liable to civil penalties up to $40,000 per day. We also may be unable to process the Form unless you provide all of the requested information.

DISCLOSURE NOTICE

Public reporting burden for this report is estimated to vary from 8 to 160 hours per response, with an average of 37 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this report, including suggestions for reducing this burden to:

Premerger Notification Office
Federal Trade Commission, Room 5301
400 7th Street, S.W.
Washington, D.C. 20024

and

Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, D.C. 20503

Under the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The operative OMB control number, 3084-0005, appears within the Notification and Report Form and these Instructions.

END OF FORM INSTRUCTIONS

Donald S. Clark,

Secretary.

[FR Doc. 2016–20950 Filed 8–31–16; 8:45 am]

BILLING CODE 6750–01–C

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910, 1915, and 1926

[Docket No. OSHA–2010–0034]

RIN 1218–AB70

Occupational Exposure to Respirable Crystalline Silica; Correction

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule; correcting amendment.

SUMMARY: OSHA published a final rule on occupational exposure to respirable crystalline silica on March 25, 2016 which became effective on June 23, 2016. This document corrects typographical errors in the final rule by revising these sections.

DATES: Effective September 1, 2016.

FOR FURTHER INFORMATION CONTACT: Annette Iannucci, Directorate of Standards and Guidance, Room N–3718, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1950; email *Iannucci.annette@dol.gov.*

SUPPLEMENTARY INFORMATION: On March 25, 2016, OSHA published a final rule entitled Occupational Exposure to Respirable Crystalline Silica (81 FR 16285–16890). The final rule retained the preceding permissible exposure limits (PELs) for respirable crystalline silica in general industry (29 CFR 1910.1000, Table Z–3), shipyards (29 CFR 1915.1000, Table Z), and construction (29 CFR 1926.55, appendix A), and added footnotes to make clear that these PELs apply to any sectors or operations where the new PEL of 50 μg/m³ is not in effect. The preceding PELs apply to operations that are not covered by the new standards, such as the processing of sorptive clays. The preceding PELs are also applicable during the time between publication of the silica rule and the dates established for compliance with the rule, as well as in the event of regulatory delay, a stay, or partial or full invalidation by the Court.

This document corrects typographical errors in the formulas for the preceding PELs, so that they will appear as they did prior to publication of the final rule.

List of Subjects in 29 CFR Parts 1910, 1915, and 1926

Cancer, Chemicals, Cristobalite, Crystalline silica, Hazardous substances, Health, Lung diseases, Occupational safety and health, Quartz, Reporting and recordkeeping requirements, Silica, Silicosis, Tridymite.

Authority and Signature

This document was prepared under the direction of David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under the following authorities: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); section 107 of the Contract Work Hours and Safety Standards Act (the Construction Safety Act) (40 U.S.C. 3704); section 41 of the Longshore and Harbor Worker's Compensation Act (33 U.S.C. 941); Secretary of Labor's Order 1–2012 (77 FR 3912 (1/25/2012)); and 29 CFR part 1911.

Signed at Washington, DC, on August 5, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Accordingly, for the reasons set forth in the preamble above, the Occupational Safety and Health Administration is amending 29 CFR parts 1910, 1915, and 1926 as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

■ 1. The authority citation for part 1910 continues to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order Numbers 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31159), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable.

Sections 1910.6, 1910.7, 1910.8 and 1910.9 also issued under 29 CFR 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Public Law 106–113 (113 Stat. 1501A–222); Pub. L. 11–8 and 111–317; and OMB Circular A–25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

■ 2. In § 1910.1000, in Table Z–3, revise the entries for "Silica: Crystalline Quartz (Respirable)", "Silica: Crystalline Cristobalite", and "Silica: Crystalline Tridymite" to read as follows:

§ 1910.1000 Air contaminants.

* * * * *

TABLE Z–3—MINERAL DUSTS

Substance	mppcf[a]	mg/m³
Silica:		
Crystalline		
Quartz (Respirable)[f]	$\frac{250^{b}}{\% SiO_2 + 5}$	$\frac{10\ mg/m^{3}\ ^{e}}{\% SiO_2 + 2}$
Cristobalite: Use ½ the value calculated from the count or mass formulae for quartz.[f]		
Tridymite: Use ½ the value calculated from the formulae for quartz.[f]		
* * *	* *	* *

* * * * *

[a] Millions of particles per cubic foot of air, based on impinger samples counted by light-field techniques.

[b] The percentage of crystalline silica in the formula is the amount determined from airborne samples, except in those instances in which other methods have been shown to be applicable.

* * * * *

[e] Both concentration and percent quartz for the application of this limit are to be determined from the fraction passing a size-selector with the following characteristics:

Aerodynamic diameter (unit density sphere)	Percent passing selector
2	90
2.5	75
3.5	50
5.0	25
10	0

The measurements under this note refer to the use of an AEC (now NRC) instrument. The respirable fraction of coal dust is determined with an MRE; the figure corresponding to that of 2.4 mg/m^3 in the table for coal dust is 4.5 mg/m^{3K}.

[f] This standard applies to any operations or sectors for which the respirable crystalline silica standard, 1910.1053, is stayed or is otherwise not in effect.

PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT

■ 3. The authority citation for part 1915 continues to read as follows:

Authority: Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; 29 CFR part 1911.

Sections 1915.120 and 1915.152 of 29 CFR also issued under 29 CFR part 1911.

■ 4. In § 1915.1000, amend Table Z by:

■ a. Revising the entries for "Silica, crystalline, respirable dust, cristobalite", "Silica, crystalline, respirable dust, quartz", "Silica, crystalline, respirable dust, tripoli (as quartz)", and "Silica, crystalline, respirable dust, tridymite"; and

■ b. Under the "MINERAL DUSTS" heading of the table, revising the entry for "Silica: Crystalline Quartz".

The revisions read as follows:

§ 1915.1000 Air contaminants.

* * * * *

TABLE Z—SHIPYARDS

Substance	CAS No.[d]	ppm [a]*	mg/m^3 [b]*	Skin designation
* * * *	*	*		*
Silica, crystalline, respirable dust				
Cristobalite; see 1915.1053	14464–46–1			
Quartz; see 1915.1053 [5]	14808–60–7			
Tripoli (as quartz); see 1915.1053 [5]	1317–95–9			
Tridymite; see 1915.1053	15468–32–3			
* * * *	*	*		*

MINERAL DUSTS

Substance	mppcf (j)
SILICA:	
Crystalline Quartz. Threshold Limit calculated from the formula (p)	$\frac{250^{(k)}}{\%\ SiO_2 + 5}$
* * *	* *

* * * * *

[5] See Mineral Dusts table for the exposure limit for any operations or sectors where the exposure limit in § 1915.1053 is stayed or is otherwise not in effect.

* The PELs are 8-hour TWAs unless otherwise noted; a (C) designation denotes a ceiling limit. They are to be determined from breathing-zone air samples.

[a] Parts of vapor or gas per million parts of contaminated air by volume at 25 °C and 760 torr.

[b] Milligrams of substance per cubic meter of air. When entry is in this column only, the value is exact; when listed with a ppm entry, it is approximate.

* * * * *

[d] The CAS number is for information only. Enforcement is based on the substance name. For an entry covering more than one metal compound, measured as the metal, the CAS number for the metal is given—not CAS numbers for the individual compounds.

* * * * *

[p] This standard applies to any operations or sectors for which the respirable crystalline silica standard, 1915.1053, is stayed or otherwise is not in effect.

* * * * *

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Subpart D—Occupational Health and Environmental Controls

■ 5. The authority citation for part 1926, subpart D, continues to read as follows:

Authority: Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704); Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); and Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

Sections 1926.58, 1926.59, 1926.60, and 1926.65 also issued under 5 U.S.C. 553 and 29 CFR part 1911.

Section 1926.61 also issued under 49 U.S.C. 1801–1819 and 6 U.S.C. 553.

Section 1926.62 also issued under section 1031 of the Housing and Community Development Act of 1992 (42 U.S.C. 4853).

Section 1926.65 also issued under section 126 of the Superfund Amendments and Reauthorization Act of 1986, as amended (reprinted at 29 U.S.C.A. 655 Note), and 5 U.S.C. 553.

■ 6. In § 1926.55, in appendix A, in the table titled "Threshold Limit Values of Airborne Contaminants for Construction":

■ a. Revise the entries for "Silica, crystalline, respirable dust, cristobalite", "Silica, crystalline, respirable dust, quartz", "Silica, crystalline, respirable dust, tripoli (as quartz)", and "Silica, crystalline, respirable dust, tridymite";

■ b. Under the "MINERAL DUSTS" heading of the table, revise the entry for "Silica: Crystalline Quartz"

The revisions read as follows:

§ 1926.55 Gases, vapors, fumes, dusts, and mists.

* * * * *

Appendix A to § 1926.55—1970 American Conference of Governmental Industrial Hygienists' Threshold Limit Values of Airborne Contaminants

THRESHOLD LIMIT VALUES OF AIRBORNE CONTAMINANTS FOR CONSTRUCTION

Substance	CAS No.[d]	ppm[a*]	mg/m^3 [b]	Skin designation
* * * *	*	*		*
Silica, crystalline, respirable dust				
Cristobalite; see 1926.1153	14464–46–1			
Quartz; see 1926.1153[5]	14808–60–7			
Tripoli (as quartz); see 1926.1153[5]	1317–95–9			
Tridymite; see 1926.1153	15468–32–3			
* * * *	*	*		*

MINERAL DUSTS

SILICA:	
Crystalline	250(k)
Quartz. Threshold Limit calculated from the formula (p)	% SiO_2 + 5
* * * *	*

* * * * *

[5] See Mineral Dusts table for the exposure limit for any operations or sectors where the exposure limit in § 1926.1153 is stayed or is otherwise not in effect.

* The PELs are 8-hour TWAs unless otherwise noted; a (C) designation denotes a ceiling limit.

* * * * *

[a] Parts of vapor or gas per million parts of contaminated air by volume at 25 °C and 760 torr.

[b] Milligrams of substance per cubic meter of air. When entry is in this column only, the value is exact; when listed with a ppm entry, it is approximate.

* * * * *

[d] The CAS number is for information only. Enforcement is based on the substance name. For an entry covering more than one metal compound, measured as the metal, the CAS number for the metal is given—not CAS numbers for the individual compounds.

* * * * *

[p] This standard applies to any operations or sectors for which the respirable crystalline silica standard, 1926.1153, is stayed or otherwise is not in effect.

* * * * *

[FR Doc. 2016–20442 Filed 8–31–16; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2015–0471; A–1–FRL–9943–06–Region 1]

Air Plan Approval; Connecticut; Open Burning and Portable Fuel Containers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut on November 19, 2012. We are approving Connecticut's request to remove two regulations from its SIP that regulate "open burning" and "portable fuel container spillage control." In place of the open burning regulation, we are approving into the Connecticut SIP a Connecticut statute that controls open burning. We are also approving a definition of "brush," which was included in a December 14, 2015 SIP submittal by Connecticut to meet infrastructure requirements of the Clean Air Act for the 2012 fine particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). The requirements in the Connecticut portable fuel container regulation have been superseded by federal portable fuel container requirements. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective October 31, 2016, unless EPA receives adverse comments by October 3, 2016. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2015–0471 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: arnold.anne@epa.gov.*
3. *Fax:* (617) 918–0047.
4. *Mail:* "Docket Identification Number EPA–R01–OAR–2015–0471," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square–Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square–Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2015–0471. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov*, or email, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *http://www.regulations.gov* or at U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, 5 Post Office Square–Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency: The Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square–Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1684, fax number (617) 918–0684, email *simcox.alison@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. EPA's Evaluation of Connecticut's SIP Revisions
III. Final Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. Background and Purpose

On November 19, 2012, the State of Connecticut submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a request to remove two regulations from its SIP that regulate open burning (Regulations of Connecticut State Agencies (RCSA) section 22a–174–17 (formerly section 19–508–17) and "portable fuel container spillage control" (RCSA section 22a–174–43), and to add into the SIP a statute, Connecticut General Statutes (CGS) section 22a–174(f), that regulates open burning.

Open Burning

Connecticut adopted regulations to control open burning in 1972. On May 31, 1972, EPA approved RCSA section 19–508–17 "Control of Open Burning" into the Connecticut SIP (37 FR 10842). In 1983, the state re-codified section 19–508–17 as section 22a–174–17 and, subsequently, adopted revisions to CGS section 22a–174(f) to control open burning, effective March 30, 2000. Connecticut intended that the statute supersede the regulation. Although CGS section 22a–174(f) authorizes the Connecticut Department of Energy and Environmental Protection (CT DEEP) to adopt regulations to control open burning, the agency did not adopt a new regulation and, instead, enforces CGS section 22a–174(f) as the state's sole authority for regulation of open burning.

On September 27, 2011, CT DEEP proposed to repeal RCSA section 22a–174–17 and held a public hearing on November 9, 2011. CT DEEP repealed RCSA section 22a–174–17, effective on September 10, 2012. On November 19, 2012, CT DEEP submitted a SIP revision to EPA to remove RCSA section 19–508–17 "Control of Open Burning" from the Connecticut SIP and to replace it with a Connecticut statute, CGS section 22a–174(f). Because implementation of this statute depends on having a definition of "brush," Connecticut included a definition of this term in its December 14, 2015 SIP submittal to meet infrastructure requirements of the Clean Air Act for the 2012 fine particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS).

Portable Fuel Container Spillage

Connecticut adopted regulations to control portable fuel container spillage in 2004. On August 31, 2006, EPA approved RCSA section 22a–174–43 "Portable Fuel Container Spillage Control" into the Connecticut SIP (71 FR 51761). In 2007, EPA issued a regulation entitled "Control of Hazardous Air Pollutants from Mobile Sources" (72 FR 8428), which included new federal requirements for portable fuel containers. See 40 CFR part 59, subpart F "Control of Evaporative Emissions from New and In-Use Portable Fuel Containers."

On September 27, 2011, the CT DEEP proposed to repeal RCSA section 22a–174–43 "Portable Fuel Container Spillage Control" and held a public hearing on November 9, 2011. CT DEEP repealed RCSA section 22a–174–43, effective on September 10, 2012. On November 19, 2012, CT DEEP submitted a SIP revision to EPA to remove RCSA section 22a–174–43 "Portable Fuel Container Spillage Control" from the Connecticut SIP.

II. EPA's Evaluation of Connecticut's SIP Revisions

Open Burning

The open burning rule, RCSA section 19–508–17, which is currently in the Connecticut SIP, identifies the types of open fires that are allowed within state boundaries, and the types of fires that require a written certificate from the Commissioner. Open fires that are allowed include barbecues or other outdoor open fires for cooking food; campfires, bonfires, and other fires for ceremonial or recreational purposes; fires to abate a fire hazard as directed by a responsible fire official; fires in devices used by construction or other workers for heating purposes; and small fires needed for activities such as street installation or paving activities and repairing utilities.

Fires that require a written certificate from the Commissioner include fires for fire-fighting training; fires for preventing or controlling diseases or pests, including agricultural diseases and pests; agricultural burning for vegetation management; fires for the disposal of dangerous materials where no reasonable alternative disposal method is available; and other fires which the Commissioner determines are necessary for protection of public health.

CGS section 22a–174(f) allows local open-burning officials to issue permits for open burning on residential property and for fire training, insect control, agricultural purposes, natural disaster clean-up, wildlife habitat and vegetative management and ecological sustainability. It also allows officials to issue permits for open burning of brush in municipal landfills, transfer stations and municipal recycling centers. Open burning of brush is not allowed when national or state air quality standards may be exceeded, where it may create a hazardous health condition, when forest fire danger is extreme, where woodland or grass land is within 100 feet of the proposed burn, or where prohibited by municipal ordinance. Burning of leaves, demolition waste or other solid waste in municipal landfills is also prohibited. The statute also establishes a process for certifying local open burning officials.

Based on a comparison of provisions in SIP-approved RCSA section 19–508–17 and CGS section 22a–174(f), EPA has determined that the statute is at least as stringent as the regulation except in one regard. CGS section 22a–174(f) includes the term "brush," but does not include a definition of this term. Instead of including the definition of brush in the statute, Connecticut added "brush" to RCSA section 22a–174–1 (definitions), effective February 1, 2010: "Brush" means shrubs, vegetation or prunings, the diameter of which is not greater than three inches at the widest point." Connecticut included this definition as contained in RCSA section 22a–174–1(19) as part of the state's December 14, 2015 SIP submittal for infrastructure requirements for the 2012 $PM_{2.5}$ NAAQS. Therefore, EPA has determined that removing RCSA section 19–508–17 from the Connecticut SIP and replacing it with CGS section 22a–174(f) is consistent with the Clean Air Act section 110(l) anti-backsliding requirements. Accordingly, EPA is approving: (1) The removal of RSCA section 19–508–17 from the Connecticut SIP; (2) the addition of CGS section 22a–174(f), submitted on November 19, 2012, into the Connecticut SIP; and (3) the addition of the definition of "brush" in RSCA section 22a–174–1, submitted on December 14, 2015, into the Connecticut SIP.

Portable Fuel Container Spillage

The regulation that controls portable fuel container spillage presently in the Connecticut SIP, RCSA section 22a–174–43, was adopted by the state in 2004, and applies to any person who sells, supplies, offers for sale, or manufactures a portable fuel container or spout for use in Connecticut. In 2007, EPA promulgated national evaporative emission standards for portable fuel containers. EPA's regulation prohibits manufacturers or importers from selling, offering for sale, introducing or delivering for introduction into commerce in the United States, or importing, any new portable fuel container that is subject to the emissions standards of the regulation and is manufactured after December 31, 2008, unless it is covered by a valid certificate of conformity, it is labeled as required, and it complies with all of the applicable requirements of the regulation, including compliance with the emissions standards for its useful life. After June 30, 2009, no manufacturer or importer may sell, offer for sale, introduce or deliver into commerce in the United States, or import any new portable fuel container that was manufactured prior to January 1, 2009 unless it meets the requirements of the regulation.

EPA's regulation also prohibits wholesale distributors from selling, offering for sale, or distributing any portable fuel container in the United States that is subject to the emissions standards of the regulation and is manufactured after December 31, 2008, unless it is covered by a valid certificate of conformity and is labeled as required. After December 31, 2009, no wholesale distributor may sell, offer for sale, or distribute in the United States any portable fuel container that was manufactured prior to January 1, 2009 unless it meets all of the requirements of the regulation. After December 31, 2009, all new portable fuel containers shall be deemed to be manufactured after December 31, 2008 unless they are in retail inventory.

Even though the applicability date for SIP-approved RCSA section 22a–174–43 is earlier, May 1, 2004, all fuel containers must now (in the year 2016 and beyond) meet the federal regulation, which is as stringent as RCSA section 22a–174–43. Therefore, EPA has determined that removal of RCSA section 22a–174–43 from the Connecticut SIP is consistent with the Clean Air Act section 110(l) anti-backsliding requirements and is approvable.

IV. Final Action

EPA is approving Connecticut's request, submitted to EPA on November 19, 2012, to remove from the Connecticut SIP RCSA section 19–508–17 "Control of Open Burning" and section 22a–174–43 "Portable Fuel Container Spillage Control." We are also incorporating into the Connecticut SIP the following Connecticut statute which was included in the November 19, 2012 submittal: Connecticut General Statute, Title 446c, Section 22a–174 (Formerly Sec. 19–508) "Powers of the commissioner. Regulations. Fees. Exemptions. General permits. Appeal of commissioner's action re permit applications," (f) "Open Burning," effective March 30, 2000. In addition, EPA is approving the definition of "brush" as contained in RCSA section 22a–174–1, which was included in Connecticut's December 14, 2015 submittal to meet infrastructure requirements under sections 110(a)(1) and 110(a)(2) of the Clean Air Act for the 2012 $PM_{2.5}$ NAAQS.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective October 31, 2016 without further notice unless the Agency receives relevant adverse comments by October 3, 2016.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 31, 2016 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Connecticut General Statute, Title 446c, Section 22a–174 (Formerly Sec. 19–508) "Powers of the commissioner. Regulations. Fees. Exemptions. General permits. Appeal of commissioner's action re permit applications," (f) "Open burning," effective March 30, 2000, as published in the General Statutes of Connecticut, revision of 1958, revised to January 1, 2015, volume 8, described in the amendments to 40 CFR part 52 set forth below. EPA is also finalizing the incorporation by reference of RCSA section 22a–174–1(19) "brush," effective February 1, 2010, as published in the State of Connecticut General Statutes, revised to January 1, 2015, described in the amendments to 40 CFR part 52 set forth below. Note that the definition for paragraph (19) in the statute that is incorporated by reference is the same as the definition that became effective in Connecticut on February 1, 2010. The EPA has made, and will continue to make, these documents generally available electronically through *http://www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 31, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 4, 2016.

H. Curtis Spalding,

Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart H—Connecticut

■ 2. Section 52.370 is amended by:

■ a. Removing and reserving paragraph (c)(95)(i)(C); and

■ b. Adding paragraph (c)(113).

The addition reads as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(113) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on November 19, 2012 and December 14, 2015.

(i) Incorporation by reference.

(A) Section 19–508–17, "Control of Open Burning," which was approved in the March 1972 plan (see paragraph (b)) is removed and replaced with the following:

(*1*) Connecticut General Statute, Title 22A "Environmental Protection," Chapter 446c "Air Pollution Control," Section 22a–174 "(Formerly Sec. 19–508). Powers of the commissioner. Regulations. Fees. Exemptions. General permits. Appeal of commissioner's action re permit applications," paragraph (f), effective March 30, 2000, as published in the General Statutes of Connecticut, revision of 1958, revised to January 1, 2015, volume 8.

(*2*) Regulations of Connecticut State Agencies (RCSA) section 22a-174–1 entitled "Definitions," revisions to Section 22a-174–1(19), as published in the Connecticut Law Journal on July 1, 2014.

(B) [Reserved]

(ii) Additional materials. [Reserved]

■ 3. In § 52.385, Table 52.385 is amended by adding entries to existing state citations for 22a–174–1, 22a–174–17, and 22a–174–43; and adding an entry for CGS Section 22a–174(f) to read as follows:

§ 52.385 EPA-approved Connecticut regulations.

* * * * *

TABLE 52.385—EPA-APPROVED REGULATIONS

Connecticut state citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by state	Date approved by EPA			
*	*	*	*	*	*	*
22a–174–1	Definitions	2/1/10	9/1/16	[Insert **Federal Register** citation].	(c)(113)	Approved 22a–174–1(19) definition of "brush" for purposes of Connecticut General Statutes (CGS) Section 22a–174(f); see paragraph (c)(113)(A) of this section.
*	*	*	*	*	*	*
22a–174–17 (formerly 19–508–17).	Control of Open Burning.	4/4/72	9/1/16	[Insert **Federal Register** citation].	(b)(2)	DEEP regulation to control open burning. Paragraph (b) was revised 9/1/16 by redesignating paragraph (b) as (b)(1) and adding paragraph (b)(2) to read as follows: This rule, formerly known as Section 19–508–17, which was approved in paragraph (b)(1), is removed from the SIP and replaced by Connecticut General Statute (CGS) section 22a–174(f) and RCSA section 22a–174–1(19); see paragraph (c)(113)(A) of this section.
*	*	*	*	*	*	*
22a–174–43	Portable Fuel Container Spillage Control.	5/10/04	9/1/16	[Insert **Federal Register** citation].	(c)(95)	DEEP regulation to control portable fuel container spillage. Paragraph (c)(95) was revised 9/1/16 by removing and reserving paragraph (c)(95)(i)(C).
*	*	*	*	*	*	*
Connecticut General Statute, Title 446c, Section 22a–174(f).	Powers of the commissioner. Open Burning.	3/30/00	9/1/16	[Insert **Federal Register** citation].	(c)(113)	Control of open burning; see paragraph (c)(113)(A) of this section.

[FR Doc. 2016–21012 Filed 8–31–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 661

[Docket Nos. FTA–2016–0019 & FTA–2016–0020]

Notice of Policy on the Implementation of the Phased Increase in Domestic Content Under the Buy America Waiver for Rolling Stock and Notice of Public Interest Waiver of Buy America Domestic Content Requirements for Rolling Stock Procurement in Limited Circumstances

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of final policy and public interest waiver.

SUMMARY: This final policy consists of the Federal Transit Administration's (FTA) policy statement regarding its implementation of the phased-in increase in domestic content for rolling stock under the FTA's Buy America statute, as amended by the Fixing America's Surface Transportation (FAST) Act. Through this final policy, FTA is providing guidance to transit agencies and transit vehicle manufacturers regarding how they are to implement the FAST Act's statutory amendments. Additionally, FTA is providing notice of public interest waivers of Buy America domestic content requirements for rolling stock procurements in limited circumstances.

DATES: The final policy takes effect on September 1, 2016.

FOR FURTHER INFORMATION CONTACT: Cecelia Comito, Assistant Chief Counsel, Office of the Chief Counsel, phone: (202) 366–2217, or email, *Cecelia.Comito@dot.gov.*

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I. Introduction

This Notice provides guidance and clarification to transit agencies and transit vehicle manufacturers regarding FTA's implementation of the FAST Act's amendments to 49 U.S.C. 5323(j)(2)(C).

Section 3011 of the FAST Act (Pub. L. 114–94, enacted December 4, 2015) amended the rolling stock waiver in 49 U.S.C. 5323(j)(2)(C) to require a two-step increase in the domestic content of rolling stock as follows:

When procuring rolling stock with FTA financial assistance (including train control, communication, traction power, and rolling stock prototypes), the cost of components and subcomponents produced in the United States for fiscal years 2016 and 2017, is more than 60 percent of the cost of all components of the rolling stock; for fiscal years 2018 and 2019, is more than 65 percent of the cost of all components of the rolling stock; and for fiscal year 2020 and each fiscal year thereafter, is more than 70 percent of the cost of all components of the rolling stock.

Given the potential effect of the FAST Act changes to vehicle procurements by the statutory use of the term "produced," transit agencies and transit vehicle manufacturers asked FTA to provide specific guidance on the applicability of the FAST Act's new Buy America provisions to contracts entered into before, on, or after October 1, 2015, the effective date set forth in section 1003 of the FAST Act.

Under existing law (49 U.S.C. 5325(e)), recipients of FTA financial assistance may enter into rolling stock contracts for up to five years for buses and seven years for railcars. In FTA Circular 4220.1F, "Third Party Contracting Guidance," FTA permits these five- and seven-year periods to cover the recipient's "material requirements" for rolling stock and replacement needs from the effective date of the contract through the end of the fifth or seventh year. FTA does not require that "the recipient must obtain delivery, acceptance, or even fabrication in five or seven years—instead, it means only that FTA limits a contract to purchasing no more than the recipient's material requirements for rolling stock or replacement parts for five or seven years, based on the effective date of the contract." *See* FTA Circular 4220.1F, Chapter IV, page 23. Under this rule, options for vehicles must be exercised within the five- or seven-year contract term, although the vehicles may be produced and delivered after the contract term.

II. Proposed Policy and Public Interest Waiver

A. Proposed Policy Guidance

The FAST Act identified two points in time: (1) "when *procuring* rolling stock," which FTA's proposed policy interpreted as the date the vehicle procurement contract was signed; and (2) "the cost of components and subcomponents *produced* in the United States for fiscal years . . .", which FTA interpreted as the delivery date of the vehicle.

Individual and Joint Procurements. FTA proposed to implement the FAST Act by requiring that if a recipient (or a group of recipients under a joint procurement) enters into a contract for rolling stock after the effective date of the FAST Act, *i.e.,* October 1, 2015, the new FAST Act provisions for domestic content of the rolling stock would apply based on the delivery date of the vehicle. Thus, for vehicles delivered in FY2018 and FY2019, the domestic content would have to be more than 65 percent, and for vehicles delivered in FY2020 and beyond, the domestic content would have to be more than 70 percent. These higher domestic content requirements would apply to all contracts signed after the effective date of the FAST Act unless FTA issues a waiver, which FTA addressed in a separate **Federal Register** Notice (81 FR 20051, April 6, 2016).

In its proposed policy statement, FTA proposed that the FAST Act amendments would not apply to a contract entered into before the effective date of the FAST Act, *i.e.,* October 1, 2015, even if the contract provides for the delivery of vehicles after FY2017. In addition, the policy statement proposed to continue to permit options to be exercised for those contracts entered into before October 1, 2015, even if the vehicles would be delivered outside the five- or seven-year contract term, consistent with Circular 4220.1F.

However, recipients who were not direct parties to a contract executed before October 1, 2015, would not be allowed to exercise options (a/k/a "piggybacking") on those contracts and thereby could not take advantage of the lower domestic content requirement. Because the assignment of options to a third party results in the third party and the vendor entering into a new contract that would be entered into after the effective date of the FAST Act, FTA proposed to apply the increased domestic content requirements to vehicles scheduled for delivery in FY 2018 and beyond.

State Purchasing Schedules. In the proposed policy statement, FTA recognized that some recipients and subrecipients purchase rolling stock from a State purchasing schedule (*i.e.,* an arrangement that a State has negotiated with multiple vendors in which those vendors essentially agree to provide an option to the State, as well as subordinate and local governmental entities allowed to participate in the schedule, to acquire specific property or services in the future at established prices). Because the purchasing schedule does not commit the State to procuring a minimum number of vehicles, a "contract" does not exist until a State, recipient, or subrecipient enters into a purchase order with a vendor listed on the schedule.

Therefore, the proposed policy statement proposed to retain the 60 percent domestic content requirement for purchase orders placed against State purchasing schedules before October 1, 2015, regardless of the ultimate delivery date(s). However, for purchase orders placed against State purchasing schedules on or after October 1, 2015, FTA proposed to adopt the elevated FAST Act content requirements.

This interpretation is consistent with the language of the statute, follows Congress' intention to increase the domestic content for vehicles produced in FY2018 or later, and adheres to basic principles of statutory construction.

Calculation of Domestic Content for Components and Subcomponents. In its proposed policy statement, FTA proposed to adjust the calculation for determining whether a component is of domestic origin under 49 CFR 661.11 to mirror the increase in domestic content for FY2018 and beyond. Currently under 49 CFR 661.11(g), "for a component to be of domestic origin, more that 60 percent of the subcomponents of that component, by cost, must be of domestic origin, and the manufacture of the component must take place in the United States. If, under the terms of this part, a component is determined to be of domestic origin, its entire cost may be used in calculating the cost of domestic content of an end product."

Thus, for vehicles to be delivered in FY2018 and 2019, FTA proposed that more than 65 percent of the subcomponents of that component, by cost, must be of domestic origin, and for FY2020 and beyond, more than 70 percent of the subcomponents of the component must be of domestic origin. The existing requirement that manufacture of the component take place in the United States would continue to apply, as well as the provision that states that if a component is determined to be of domestic origin, its entire cost may be used in calculating the domestic value of the rolling stock, regardless of the value of its individual subcomponents.

B. Proposed Public Interest Waiver

FTA recognized that the FAST Act amendments may produce significant hardship for two categories of recipients and manufacturers: (1) Recipients who entered into contracts or placed purchase orders against State schedules between October 1, 2015 and December 4, 2015 (*i.e.,* the effective date of the Act and its enactment date, respectively); and (2) recipients who entered into contracts after December 4, 2015, as a result of solicitations for bids or requests for proposals that were advertised before December 4, 2015.

Under 49 U.S.C. 5323(j)(2)(A), the Secretary of Transportation may waive the Buy America requirements if the Secretary finds that applying the Buy America requirements would be "inconsistent with the public interest."

This function has been delegated to the FTA Administrator by 49 CFR 1.91, and section 661.7(b) of FTA's implementing regulation (49 CFR part 661) provides: "In determining whether the conditions exist to grant this public interest waiver, the Administrator will consider all appropriate factors on a case-by-case basis . . . . When granting a public interest waiver, the Administrator shall issue a detailed written statement justifying why the waiver is in the public interest. The Administrator shall publish this justification in the **Federal Register**, providing the public with a reasonable time for notice and comment of not more than seven calendar days."

In a separate Notice accompanying the proposed policy statement (Docket FTA–2016–0020), FTA sought comment on a general public interest waiver for those affected parties (81 FR 20051, April 6, 2016). FTA proposed a public interest waiver for the following categories of contracts: (1) For contracts entered into between the FAST Act's effective date and date of enactment (*i.e.,* from October 1, 2015 through December 4, 2015), the increased domestic content requirements for FY2018 and beyond would not apply, regardless of when the vehicles were delivered; and (2) for contracts entered into after December 4, 2015 as a result of solicitations for bids or requests for proposals that were advertised before December 4, 2015, the increased domestic content requirements for FY2018 and beyond would not apply, regardless of when the vehicles were delivered.

III. Response to Comments

FTA received comments from 24 entities in Docket FTA–2016–0019 and comments from 14 entities in Docket FTA–2016–0020 from a broad cross-section of transit agencies, transit vehicle manufacturers, transit industry trade associations, the passenger vessel industry, an alliance of domestic manufacturing interests, compliance auditors, and the general public. The comments and proposals were diverse. The comments and questions can be categorized into the following primary categories:

A. What date controls the percentage of domestic content?

Numerous commenters objected to the proposed policy statement's use of the delivery schedule as the determining factor. Some suggested that domestic content should be based on the solicitation date, which establishes the transit agency's domestic content expectations for prospective bidders, and allows suppliers to begin identifying domestic suppliers. They claimed that using the solicitation date of an invitation for bids or a request for proposals provides certainty to transit vehicle manufacturers, as transit agencies and transit vehicle manufacturers cannot forecast when a contract will be signed or when the vehicles will be delivered.

As an alternative to the solicitation date, a significant number of commenters proposed that FTA apply the domestic content requirements based upon the date a contract was entered into, for three primary reasons—consistency in vehicle components to avoid cardinal changes and increased pricing risks, reduction of administrative burdens, and consistency with the approach Congress used in implementing the last legislative increase in domestic content, which took place in 1987.

According to transit vehicle manufacturers, their vehicle bid quotes are based on the price of components known at the time the vehicle manufacturer receives the transit agency's solicitation and begins planning its supply chain by contacting potential suppliers. According to commenters, FTA's proposed policy had the potential of requiring three different component calculations based on a multi-year delivery schedule stemming from a single contract—one for vehicles delivered during FYs 2016–2017, another for FYs 2018–2019, and a third for FYs 2020 and beyond. This would require the vehicle manufacturer to identify new and potentially untried domestic suppliers for each successive configuration, integrate those new components in the midst of an ongoing production line, and incur the risk of price increases for those new components, as well as the possibility that the replacement or substitution of components might be characterized by some competitors as a "cardinal change." Commenters also noted that a vehicle scheduled for delivery during the FY 2018–2019 time frame with a 65 percent domestic content requirement could find itself subject to a 70 percent domestic content requirement if delays and slippages beyond the control of the transit agency and the transit vehicle manufacturer resulted in the vehicle being delivered in FY 2020 or later. They requested a constant domestic content level that would exist for the duration of the production contract.

In addition, transit agencies expressed concerns regarding the administrative costs and burdens of performing three separate pre-award audits and three separate post-award audits on three potentially different vehicle configurations. As a term and condition of assistance, recipients of FTA funding must conduct a pre-award and post-delivery audit on every rolling stock model they procure. If domestic content was based on the delivery date, a transit agency with a multi-year delivery schedule faced the possibility that their vehicles could have three different levels of domestic content, which they would need to verify and confirm. In addition, unforeseen delays in production could result in a vehicle delivery occurring in a subsequent fiscal year with a higher domestic content obligation.

Several commenters pointed out that when Congress elevated the domestic content requirement from 50 percent to 60 percent in section 337 of Title III of the Surface Transportation and Urban Relocation Assistance Act of 1987 (Pub. L. 100–17) (STURAA), Congress provided that a vehicle's domestic content percentage would be based on the date the procurement contract was signed. Commenters suggested that FTA follow that approach.

Finally, one commenter requested clarification on the Notice's use of the term "advertised" when referring to "solicitations for bids or requests for proposals that were advertised before December 4, 2015." FTA will address this request in the discussion of the public interest waiver, below.

FTA's Response:

Basing domestic content standards on the date the solicitation is made available to the public and potential bidders or on the date the contract is executed is contrary to language in the FAST Act. Using the date of solicitation would allow transit agencies to lock in a lower domestic content threshold for a contract that may be signed at a date when the higher domestic content standards are in effect, contrary to the statutory language. FTA believes Congress provided adequate advance notice in the FAST Act regarding the increase in domestic content, such that manufacturers and vendors have sufficient time to amend open solicitations for bids prior to the submission of bid proposals or the execution of a contract, and in fact, FTA is aware of transit agencies that have amended solicitations after they have been published. FTA also is aware that some vehicle manufacturers have indicated through a survey of pre-award audit data that they are already capable of meeting a higher domestic content threshold.

FTA does not find the request to follow the language used in earlier revisions to domestic content requirements to be persuasive. When

Congress enacted STURRA in 1987, it amended the statutory language in the authorizing statute to increase the domestic content requirement from 50 percent to 55 percent effective October 1, 1989, and section 337(a)(1)(B) increased the domestic content from 55 percent to 60 percent effective October 1, 1991. Specifically, section 337(a)(2)(B) provided that the amendments shall not apply with respect to any supplier or contractor or any successor in interest or assignee which qualified under the provisions of section 165(b)(3) of the Surface Transportation Assistance Act of 1982 prior to the date of enactment of this Act *under a contract entered into prior to April 1, 1992.*

UMTA (FTA's predecessor agency) quickly published an implementing Notice that stated:

> The Buy America domestic content requirement for buses, rolling stock and associated equipment will be increased from its existing 50 percent to 55 percent at the end of three years, and to 60 percent at the end of five years, except that any company that has met the existing Buy America requirement would be exempted from these increases for all contracts entered into before April 1, 1992. In addition, the rolling stock price differential waiver is increased from its current 10 percent to 25 percent, and the definition of "components" is specifically to include "subcomponents." UMTA will be revising its Buy America regulation to reflect these changes. (52 FR 15440, April 28, 1987)

UMTA then published a Notice of Proposed Rulemaking to implement these new provisions (53 FR 32994, August 29, 1988), issuing its Final Rule on January 9, 1991 (56 FR 926). In the Final Rule, UMTA stated that it "believes that Congress intended to apply the increased domestic content requirements on an accelerated basis to firms entering the marketplace after April 2, 1987, and that it intended to grandfather existing firms that had complied with previous Buy America requirements regardless of the number of contracts or the product supplied (*e.g.,* a bus versus a rail car)."

Although Congress had the precedent of the timing language used in STURAA when it drafted the FAST Act, Congress declined to reintroduce that language.

However, FTA finds the requests that the domestic content of a vehicle be fixed upon a single date that establishes the domestic content level for the duration of the contract to be persuasive, for the reasons articulated by the commenters. For those reasons, the applicable domestic content percentage will be based on the scheduled delivery date of the first production vehicle (*i.e.,* the first vehicle intended to carry passengers in revenue service), final acceptance notwithstanding. This approach is closest to the FAST Act's statutory language and to Congress' clear direction. If the delivery date slips into a subsequent FY due to unforeseen circumstances, FTA will address those situations on a case-by-case basis. (Note that FTA is basing the domestic content requirement on the delivery date of the first production vehicle, rather than on the delivery date of a prototype unit, for several reasons. First, prototype units are constructed by the manufacturer for the limited purpose of design qualification testing, and may not necessary represent the finalized car design or car content. Second, prototypes are produced for testing purposes, and do not typically enter revenue (*i.e.,* passenger) service in their prototype configuration. Finally, prototype units are delivered several months before the scheduled delivery date of the first production model and may not necessarily represent the final vehicle configuration, although the scheduled delivery date of the first production unit will undoubtedly control the components contained in the prototype unit. Consistent with the FAST Act, however, prototype units must contain an identical percentage of domestic content as the production units.)

This approach of using the date of first production vehicle delivery best reflects the statutory language of the FAST Act, while providing the consistency in componentry and relieving the need to conduct multiple pre-award and post-delivery audits raised as concerns by numerous commenters. The FAST Act's phased-in approach provides adequate notice to transit agencies and transit vehicle manufacturer suppliers of the domestic content requirements.

B. How do the new requirements apply to options, joint procurements, and piggyback procurements?

FTA received numerous comments regarding the effect of the higher domestic content provisions on options, joint procurements, and piggyback procurements. One commenter objected to extending the domestic content percentages throughout the life of a multi-year contract, including the exercise of any options, believing that Congress intended to increase domestic content as soon as possible, and that allowing the exercise of options would lock in a lower domestic content threshold well through FY 2020 and beyond. In contrast, several transit agencies and vehicle manufacturers proposed that the domestic content for rolling stock extend to the exercise of options for additional vehicles of identical manufacture, citing the benefits to rolling stock manufacturers and transit agencies, such as the predictability of pricing, the availability of components, consistency within the supply chain, and facilitating the ongoing manufacturing of rolling stock. They also cited the retroactive effect of such an approach, stating that applying a higher domestic content standard to a pre-existing contract that established a lower threshold was inconsistent with public interest and general principles of contract law.

One commenter sought clarity regarding the applicability of the proposed policy guidance to joint procurement contracts executed prior to the effective date of the FAST Act.

Several commenters objected to FTA's proposed guidance that would not allow recipients to piggyback on another agency's contract unless the vehicles being produced under the original contract met the domestic content requirements at the time the optioned vehicles are delivered.

FTA's Response:

FTA's proposed policy recognized the differences between the exercise of options by the original parties to a contract or a joint procurement between two or more purchasers and a single vehicle manufacturer, and piggyback procurements by third parties who were not parties to the original contract. With regard to the exercise of options, FTA is persuaded that the predictability of pricing and consistency within the supply chain outweighs any risks that the FAST Act is being circumvented. Therefore, FTA is modifying its final policy guidance to reflect that the date of the delivery of the first production vehicle under the contract controls the domestic content of all vehicles delivered under the contract, including vehicles delivered pursuant to the exercise of options. The exercise of options by the original parties to the contract or joint procurement establishes a predictable contract price for the buyers, and provides a standardized component list for the transit vehicle manufacturer, while at the same time it allows the transit vehicle manufacturer to keep its production line open, ensuring American jobs. However, only the original parties to a contract (including signatories to a joint procurement) are entitled to the benefits of exercising rights under that procurement.

FTA is not persuaded by the commenters who objected to FTA's limitations on the use of piggyback procurements during this transition period. The right to exercise an option does not create a contractual obligation until that contract is actually signed. Thus, assigning contract options to a third party will result in a new contract between that third party and the transit vehicle manufacturer, negating commenters' concerns that an increase in domestic content might be viewed as a "cardinal change." Third parties seeking the assignment of procurement options (a/k/a "piggybacking") have no contractual or statutory right to that option, and FTA considers that procurement to be a "new" contract and therefore subject to the applicable FAST Act standard based upon the scheduled delivery date of the first production vehicle under the new contract.

C. Do the increased domestic content requirements extend to subcomponents?

In its April 6 publication, FTA proposed to extend the elevated domestic content requirements to the subcomponents that constitute a component. FTA received relatively little comment on this specific provision. Several commenters proposed that a component's domestic content be based upon the date the component was offered in response to a solicitation, rather than upon the component's actual date of manufacture or the vehicle's intended delivery date. In support of their position, transit vehicle manufacturers said that they solicit bids for vendors for specific vehicle components. The prices submitted by those bidders are based upon quotes received from their suppliers and sub-suppliers, and the transit vehicle manufacturer has limited ability to leverage that bidder to increase the domestic content of its subcomponents. In addition, changing suppliers midway through a production schedule would be disruptive to production schedules, particularly if a manufacturer must switch to an untested supplier solely to meet a gradual increase in domestic content. In contrast, the association supporting domestic manufacturing expressed concerns that maintaining fixed domestic component and subcomponent levels throughout the life of the contract discourages new rolling stock suppliers from entering the market.

FTA's Response:

With the exception of components manufactured by the transit vehicle manufacturer itself, the vehicle manufacturer has little influence over the subcomponent content of a given component, and given the prevalence of multi-year vehicle delivery schedules, the effective date for a component's domestic content will be based upon the requirements in the contract. For solicitations advertised after the effective date of this Notice, however, the solicitation must include the appropriate statutory domestic content percentages for both components and subcomponents.

FTA is sensitive to the position that the elevated domestic content requirements eventually will encourage new entrants into the vehicle supply chain. All contracts signed after the FAST Act's effective date, including piggyback procurements and procurements off a state's procurement schedule, will be subject to the higher domestic content standards, resulting in more domestic suppliers entering the supply chain and the incorporation of more domestic content into vehicles funded with FTA financial assistance.

D. Do the changes also apply to train control, communication, and traction power systems?

For purposes of Buy America, rolling stock includes train control, communication, and traction power equipment. 49 U.S.C. 5323(j)(2)(C). See also 49 CFR 661.11(t), (u), and (v). One commenter pointed out that the delivery of components on a construction contract differs from the delivery schedule of a rolling stock contract. Unlike rolling stock procurements where the transit agency is contracting for a fleet of homogenous transit vehicles, a construction contract may encompass a communication system, a traction power system, and a train control system, all of which may have differing construction schedules and varying component lists. Attempting to impose a domestic content based on when components are delivered to a job site, or the completion date of a particular construction segment may force the substitution of materials midway through a construction project, or in a worse-case scenario, may force the removal and replacement of components if delays push the completion of the contract into a subsequent fiscal year. The commenter proposed that the contracting date for the construction project would be a better determinant of the domestic content requirement, rather than one based on the installation date of each component or the completion of a particular portion of a construction contract.

FTA's Response:

FTA agrees with the commenter that there are significant differences between procurements for identical units of rolling stock, and a construction contract consisting of multiple deliverables, and therefore, the contracting award dates for train control, communication, and traction power systems will determine the contract's domestic content percentage. If a contract was signed in FY2016 or FY2017, the resulting components must consist of at least 60 percent domestically-manufactured components. If a construction contract is awarded during FY 2018 or FY 2019, the contract must include a domestic content percentage for that project that exceeds the 65 percent threshold. And if a construction contract is awarded in FY 2020 or beyond, the percentage of domestically-manufactured components must exceed 70 percent.

E. Does the increase in domestic content requirements apply to remanufactured, overhauled, or rebuilt transit vehicles?

A transit vehicle rebuilder proposed that the FAST Act amendments should not apply to overhauls, rebuilds or remanufacture of any buses procured prior to the effective date of the FAST Act. The commenter also asked that the requirements be applied consistently throughout the duration of a contract so that the resulting vehicles will have consistent Buy America content. The commenter argues that the FAST Act amendments should not be interpreted in any manner that decreases transit agencies' abilities to complete their intended overhauls by forcing a higher standard of American content at the time of overhaul than when the bus was originally manufactured.

FTA's Response:

Consistent with the commenter's recommendation, FTA agrees that the domestic content in effect at the time the vehicle was delivered will apply to any future contracts for overhaul, rebuild, or remanufacturing projects, limited to the parties on the original contract.

F. Do the FAST Act amendments apply to passenger ferry vessels?

FTA received two comments from the passenger ferry vessel industry and a ferry operator that proposed an implementation process for ferry vessels that based the domestic content requirement on the date of vessel contracting, rather than on the delivery date of the vessel. Commenters argued that it can be hard at the time of the contract's execution to anticipate with specificity exactly when the constructed ferry vessel will be finished, pass required regulatory inspections and sea trials, and be delivered to the customer. For vessels scheduled to be delivered over a multi-year program, they noted the difficulty and inefficiency in maintaining multiple component lists for identical vessels that would be delivered across different fiscal years.

FTA's Response:

FTA acknowledges that the long lead times associated with issuing design specifications, obtaining Coast Guard and other regulatory approval, bid solicitations, and construction of a ferry vessel exceed that required for other traditional types of rolling stock. Accordingly, for ferry vessels, the date on which a transit agency signs the procurement contract will govern the domestic content for all vessels delivered under that contract.

G. How do the new rules apply to reimported domestic steel and iron?

One commenter asked that FTA address the applicability of section 3011 of the FAST Act, which added 49 U.S.C. 5323(j)(5), allowing the inclusion of steel and iron produced in the United States and incorporated into a rolling stock frame or car shell outside the United States, provided that the frame or car shell is imported back into the United States for final assembly.

FTA's Response:

Consistent with the statutory provision, the cost of any domestic steel and iron may be included in the calculation of the transit vehicle's domestic content, provided that the average cost of the vehicle exceeds $300,000, as provided by the FAST Act. Manufacturers may include the cost of domestic steel and iron on vehicles produced after October 1, 2015, the effective date of the FAST Act.

H. Will FTA issue public interest waivers for vehicle procurements underway when the FAST Act was enacted?

In a Notice published concurrently with the proposed policy statement (81 FR 20051, April 6, 2016), FTA invited the public to comment on a proposed public interest waiver that would apply the current domestic content standard to rolling stock contracts entered into between October 1, 2015 (the effective date of the FAST Act) and December 4, 2015, (the date on which the Act was enacted), and for contracts entered into after December 4, 2015, as a result of solicitations for bids or requests for proposals that were advertised before December 4, 2015.

FTA received 14 comments on the proposed waiver from: A transit industry trade association, a passenger vessel trade group, several public transportation agencies, numerous transit vehicle manufacturers and remanufacturers, and Buy America consultants, all of whom supported the proposed waiver. Among the cited benefits of a waiver were the avoidance of additional costs to transit agencies that would have to rewrite and re-advertise existing solicitations to incorporate the new domestic content thresholds, the administrative costs to vehicle manufacturers who would need to identify and solicit new domestic suppliers, and most importantly, predictable delays in the acquisition of new transit vehicles, which would pose a disservice to transit riders.

The passenger vessel group asked that FTA extend the waiver to ferry vessel procurements for which the vessel design was substantially complete before the enactment of the FAST Act; vehicle remanufacturers asked that the waiver extend to contracts for rebuilds, overhauls, and remanufacturing entered into prior to the enactment date of the FAST Act; and several transit agencies and vehicle manufacturers asked that the waiver extend to contract options assigned to another transit agency if the contract was entered into prior to the FAST Act's enactment date.

FTA's Response:

Based on the foregoing discussion of the FAST Act's implementation and input from commenters, FTA believes that a request for a public interest waiver to address contracts signed before the date the FAST Act was enacted is reasonable, and is extending the waiver to contracts for ferry vessels and to contracts for the remanufacturing, rebuilding, and overhaul of a recipient's existing fleet. However, as stated previously, FTA will not extend pre-FAST Act domestic content percentages to options exercised by a third party after the effective date of the Act.

Further, to avoid the disruption of ongoing contract solicitations and to facilitate the delivery of transit vehicles to the public, FTA is extending the waiver to contract solicitations advertised on or after December 4, 2015, provided the contract is awarded within 60 days after the publication date of this Notice. If a solicitation was advertised (*i.e.,* published or distributed to potential bidders in manner that constitutes constructive notice) on or after the enactment date of the FAST Act and the parties are unable to execute a contract within 60 days of this Notice, the solicitation must be amended to reflect the applicable domestic content standard that will be in effect when the first production vehicle is scheduled to be delivered. If compliance with this requirement would pose an undue hardship, FTA will evaluate requests for a waiver on a case-by-case basis.

A request for a public interest waiver should set forth the detailed justification for the proposed waiver, including information about the history of the procurement and the burden on the recipient and/or the industry in complying with the FAST Act. Public interest waivers should be narrowly tailored and FTA will not generally look favorably on waivers that provide for contracts that include the exercise of options for vehicles that will be delivered beyond FY2020. FTA will act expeditiously on public interest waiver requests that provide the information requested.

IV. Final Policy Guidance and Public Interest Waiver

A. Final Policy Guidance

Individual and Joint Procurements of Buses and Railcars. For rolling stock contracts entered into on or after October 1, 2015, *i.e.,* the effective date of the FAST Act, the applicable domestic content percentage under section 5323(j)(2)(C) will be based on the scheduled delivery date of the first production vehicle (*i.e.,* the first vehicle intended to carry passengers in revenue service), final acceptance notwithstanding. Thus, if a recipient or group of recipients as part of a joint procurement enter into a contract for rolling stock on or after October 1, 2015, then the new FAST Act provisions applicable for the date of delivery of the first production vehicle shall apply. Accordingly, if the first production vehicle is delivered in FY2018 or FY2019, the domestic content must be more than 65 percent, and if the first production vehicle is delivered in FY2020 or beyond, the domestic content must be more than 70 percent. These delivery provisions apply to contracts entered into on or after October 1, 2015, unless a waiver is granted. If the delivery date of the first production vehicle is delayed such that it will be delivered in a year with a higher domestic content, FTA will address those situations on a case-by-case basis.

The FAST Act amendments do not apply to contracts entered into before October 1, 2015, even if the contract provides for the delivery of the first production vehicle after FY2017. For contracts entered into before October 1, 2015, all vehicles delivered under the original contract base order and any properly exercised options by recipients who are direct parties to the contract may contain a domestic content of more than 60 percent, per the pre-FAST Act requirements. Recipients who are not direct parties to a contract executed before October 1, 2015, however, may not exercise assigned options (a/k/a "piggybacking") on such contracts.

Procurements of Ferry Vessels. Due to the long lead time in establishing vessel design specifications, obtaining Coast Guard certifications and other regulatory approval, and the bid solicitation and review process that exceeds that required for other traditional types of rolling stock, the date on which a transit agency signs the vessel contract will govern the domestic content for all vessels delivered under that contract. Therefore, for vessel contracts signed during FYs 2016 or 2017, the vessels must contain a minimum of 60 percent domestic content; contracts signed in FYs 2018 or 2019 must require no less than 65 percent domestic content; and contracts signed in FY 2020 or beyond must mandate a domestic content of no less than 70 percent.

Train Control, Communication and Traction Power Equipment. For purposes of Buy America, rolling stock includes train control, communication, and traction power equipment. 49 U.S.C. 5323(j)(2)(C). See also 49 CFR 661.11(t), (u), and (v). The domestic content requirement in effect on the date a contract was signed for train control, communication, and traction power equipment will control. If the contract is signed in FY2016 or FY2017, the contract shall require an overall domestic content that exceeds 60 percent; if a contract is signed in FYs 2018 or 2019, the contract must include an overall domestic content percentage that exceeds 65 percent; and if a contract is signed in FY2020 or beyond, the domestic content must exceed 70 percent.

State Purchasing Schedules. Some recipients purchase rolling stock from a State purchasing schedule. A State purchasing schedule is an arrangement that a State has established with multiple vendors in which those vendors agree to provide essentially an option to the State and its subordinate governmental entities and others it might include in its programs, to acquire specific property or services in the future at established prices. Because the purchasing schedule does not commit the State to procuring a minimum number of vehicles, a "contract" does not exist until a State, recipient or subrecipient enters into a purchase order with a vendor listed on the schedule.

Therefore, for purchase orders placed against State purchasing schedules before October 1, 2015, for the delivery of rolling stock in FY2018 and beyond, the increased domestic content requirements will not apply. For purchase orders placed against State schedules on or after October 1, 2015, for rolling stock that will be delivered in FY 2016 or 2017, the domestic content requirement must exceed 60%. For purchase orders placed against State schedules for rolling stock that will be delivered in FYs 2018 or 2019, the domestic content must exceed 65%, and for purchase orders placed against State schedules for rolling stock that will be delivered in FY 2020 or beyond, the domestic content must exceed 70%.

Calculation of Domestic Content. FTA will adjust the calculation for determining whether a component is of domestic origin under 49 CFR 661.11 to accommodate the increase in domestic content for FY2018 and beyond. Currently under 49 CFR 661.11(g), "for a component to be of domestic origin, more that 60 percent of the subcomponents of that component, by cost, must be of domestic origin, and the manufacture of the component must take place in the United States. If, under the terms of this part, a component is determined to be of domestic origin, its entire cost may be used in calculating the cost of domestic content of an end product."

Thus, for vehicles to be delivered in FY2018 or 2019, for a component to be of domestic content, more than 65 percent of the subcomponents of that component, by cost, must be of domestic origin, and for FY2020 or beyond, more than 70 percent of the subcomponents of the component must be of domestic origin. The requirement that manufacture of the component take place in the United States still applies. Additionally, if a component is determined to be of domestic origin, its entire cost may be used in calculating the cost of content of an end product.

Cost of Domestic Steel and Iron for Rolling Stock Frame or Car Shell. Section 3011 of the FAST Act, which added 49 U.S.C. 5323(j)(5), allows domestic content to include steel and iron produced in the United States and incorporated into a rolling stock frame or car shell outside the United States, provided that the frame or car shell is imported back into the United States for final assembly. Consistent with the statutory provision, the cost of any domestic steel and iron may be included in the calculation of the transit vehicle's domestic content, provided that the average cost of the vehicles exceeds $300,000, as provided by the FAST Act. Manufacturers may include the cost of domestic steel and iron on vehicles produced after October 1, 2015, the effective date of the FAST Act.

B. General Public Interest Waivers

FTA is issuing two general public interest waivers to address two categories of recipients and manufacturers: (1) Recipients who entered into contracts or placed purchase orders against State schedules between October 1, 2015 and December 4, 2015; and (2) recipients who have entered into contracts after December 4, 2015, as a result of solicitations for bids or requests for proposals that were advertised before December 4, 2015. In addition, FTA is issuing a third public interest waiver for recipients who solicited contracts on or after December 4, 2015, provided they enter into a contract within 60 days of publication of this Notice.

Under 49 U.S.C. 5323(j)(2)(A), the Administrator may waive the Buy America requirements if the Administrator finds that applying the Buy America requirements would be inconsistent with the public interest. "In determining whether the conditions exist to grant a public interest waiver, the Administrator will consider all appropriate factors on a case-by-case basis . . . When granting a public interest waiver, the Administrator shall issue a detailed written statement justifying why the waiver is in the public interest. The Administrator shall publish this justification in the **Federal Register**, providing the public with a reasonable time for notice and comment of not more than seven calendar days." 49 CFR 661.7(b).

Public interest waiver for contracts entered into between October 1, 2015 and December 4, 2015. FTA grants a general public interest waiver for contracts entered into between the FAST Act's effective date and date of enactment (*i.e.,* between October 1, 2015 and December 4, 2015). For these contracts, the increased domestic content requirements for FY2018 and beyond will not apply, regardless of when the first production vehicle is delivered. However, consistent with FTA's policy statement above, parties to the contracts may exercise options under the contract, but recipients will not be permitted to piggyback on the contracts.

Public interest waiver for contracts entered into after December 4, 2015 as a result of solicitations advertised before December 4, 2015. FTA grants a general public interest waiver for contracts entered into after December 4, 2015 as a result of solicitations for bids or requests for proposals that were advertised (*i.e.,* published or distributed to potential bidders in a manner that constitutes constructive notice) before

December 4, 2015. Under these circumstances, the increased domestic content requirements for FY2018 and beyond will not apply, regardless of when the first production vehicle is delivered. However, consistent with FTA's policy statement above, parties to the contracts may exercise options under the contract, but recipients will not be permitted to piggyback on the contracts.

Public interest waiver for contract solicitations advertised on or after December 4, 2015 and entered into within 60 days of publication of this notice. To avoid the disruption of ongoing contract solicitations and to facilitate the delivery of transit vehicles to the public, FTA is extending the waiver to contract solicitations advertised on or after December 4, 2015, and entered into within 60 days after the publication date of this Notice. If a solicitation was advertised (*i.e.,* published or distributed to potential bidders in a manner that constitutes constructive notice) after the enactment date of the FAST Act and the parties are unable to execute a contract within 60 days of this Notice, the solicitation must be amended to reflect the applicable domestic content standard that will be in effect when the first production vehicle is scheduled to be delivered. If compliance with this requirement would pose an undue hardship, FTA will evaluate requests for a waiver on a case-by-case basis.

Recipients may apply to FTA for individual public interest waivers for contracts that do not fall within the scope of a general public interest waiver. A request for a public interest waiver should set forth the detailed justification for the proposed waiver, including information about the history of the procurement and the burden on the recipient and/or the industry in complying with the FAST Act. Public interest waivers should be narrowly tailored and FTA will not generally look favorably on waivers that provide for contracts that include the exercise of options for vehicles that will be delivered beyond FY2020. FTA will act expeditiously on public interest waiver requests that provide the information requested.

V. Effective Date

Because the statute is self-effectuating, the changes are effective upon the FAST Act's enactment. FTA will be initiating a subsequent rulemaking updating 49 CFR part 661 to reflect these changes; however, today's Policy Statement and Waiver represents FTA's implementation of the FAST Act provisions during this interim period.

Dated: August 26, 2016.

Ellen Partridge,

Chief Counsel.

[FR Doc. 2016–21007 Filed 8–31–16; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120815345–3525–02]

RIN 0648–XE831

Snapper-Grouper Fishery of the South Atlantic; 2016 Recreational Accountability Measure and Closure for the South Atlantic Other Porgies Complex

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the other porgies complex recreational sector in the exclusive economic zone (EEZ) of the South Atlantic for the 2016 fishing year through this temporary rule. In the South Atlantic, the other porgies complex includes jolthead porgy, knobbed porgy, whitebone porgy, scup, and saucereye porgy. NMFS has determined that recreational landings of species in the other porgies complex have reached the recreational annual catch limit (ACL). Therefore, NMFS closes the recreational sector for the other porgies complex in the South Atlantic EEZ on September 3, 2016. This recreational closure is necessary to protect the other porgies complex resource.

DATES: This rule is effective 12:01 a.m., local time, September 3, 2016, until 12:01 a.m., local time, January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes species in the other porgies complex and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The recreational ACL for the other porgies complex is 106,914 lb (48,495 kg), round weight. In accordance with regulations at 50 CFR 622.193(w)(2)(i), if the recreational ACL is met, or is projected to be met, the NMFS Assistant Administrator (AA) will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year. Recreational landings in 2016 from the Southeast Fisheries Science Center indicate that the recreational ACL has already been harvested. As a result, the recreational sector for the other porgies complex will be closed effective 12:01 a.m., local time, September 3, 2016.

During the closure, the bag and possession limits for species in the other porgies complex in or from the South Atlantic EEZ are zero. The recreational sector for the other porgies complex will reopen on January 1, 2017, the beginning of the 2017 recreational fishing year.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of the South Atlantic other porgies complex and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(w)(2)(i) and is exempt from review under Executive Order 12866. These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment. This action responds to the best scientific information available.

The AA finds that the need to immediately implement this action to close the recreational sector for the other porgies complex constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the AM has already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because there is a need to immediately implement this action to protect the species in the other porgies complex. Prior notice and opportunity for public comment would require time and would potentially allow the recreational sector to further exceed its ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 29, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–21090 Filed 8–29–16; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 160706586–6780–01]

RIN 0648–XE726

Atlantic Highly Migratory Species; Adjustments to 2016 Northern Albacore Tuna and Atlantic Bluefin Tuna Quotas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary final rule; adjustments to 2016 northern albacore quota and 2016 Atlantic bluefin tuna Reserve category quota.

SUMMARY: NMFS adjusts the northern albacore (NALB) annual baseline quota for 2016 with available underharvest of the 2015 adjusted U.S. NALB quota. NMFS also augments the 2016 Atlantic bluefin tuna (BFT) Reserve category quota with available underharvest of the 2015 adjusted U.S. BFT quota. This action is necessary to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective September 1, 2016 through December 31, 2016.

ADDRESSES: Supporting documents such as the Environmental Assessments and Fishery Management Plans and their Amendments described below may be downloaded from the HMS Web site at *www.nmfs.noaa.gov/sfa/hms/*. These documents also are available upon request from Sarah McLaughlin or Brad McHale at the telephone number below.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of NALB and BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27(e) describes the NALB annual quota recommended by ICCAT and the annual NALB quota adjustment process. Section 635.27(a) subdivides the ICCAT-recommended U.S. BFT quota among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014), and describes the annual BFT quota adjustment process. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quotas.

The NALB quota implementation and quota adjustment processes, along with the BFT quota adjustment process, were previously analyzed in Amendment 7, which included a Final Environmental Impact Statement, Final Regulatory Impact Review, Final Regulatory Flexibility Analysis, and Final Social Impact Statement, published in August 2014. ICCAT conducted another BFT stock assessment update in 2014, and, after considering the scientific advice in the stock assessment, adopted a recommendation regarding western Atlantic bluefin tuna management that increases the U.S. bluefin tuna quota for 2015 and 2016 (ICCAT Recommendation 14–05: "Recommendation by ICCAT Amending the Supplemental Recommendation by ICCAT Concerning the Western Atlantic BFT Rebuilding Program"). NMFS published a final rule to implement that baseline annual U.S. BFT quota on August 28, 2015 ("BFT Quota Rule," 80 FR 52198), and prepared an Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis for that action.

NALB Annual Quota and Adjustment Process

As described in the final rule implementing Amendment 7, since 1998, ICCAT has adopted recommendations regarding the NALB fishery. A multiyear management measure for northern albacore tuna was first adopted in 2003, setting the Total Allowable Catch (TAC) at 34,500 mt. ICCAT's Standing Committee on Research and Statistics (SCRS) assessed the northern albacore tuna stock in 2009 and concluded that the stock continues to be overfished with overfishing occurring, recommending a level of catch of no more than 28,000 mt to meet ICCAT management objectives by 2020. In response, in 2009, ICCAT established the NALB rebuilding program via Recommendation 09–05, effective for 2010 and 2011, setting a 28,000-mt TAC and including several provisions to limit catches by individual ICCAT Contracting Parties (for major and minor harvesters) and reduce the amount of unharvested quota that could be carried forward from one year to the next, from 50 percent to 25 percent of a Contracting Party's initial catch quota. Subsequent ICCAT NALB Recommendations 11–04 and 13–05 (both entitled "Supplemental Recommendation by ICCAT Concerning the North Atlantic Albacore Rebuilding Program") maintained the TAC at 28,000 mt for 2012 through 2016 and contained specific recommendations regarding the NALB rebuilding program, including allocation of the annual TAC among the European Union, Chinese Taipei, the United States, and Venezuela. The U.S. quota for 2012 through 2016 has been 527 mt, annually. These recommendations limit Japanese northern albacore tuna catches to 4 percent in weight of its total Atlantic bigeye tuna longline catch, and limits the catches of other ICCAT parties to 200 mt. Recommendation 13–05 also specifies that quota adjustments for a given year's underharvest or overharvest must be made within 2 years from the subject year (*i.e.*, adjustments based on 2015 catches would be made during or before 2017). The maximum underharvest can be carried forward from one year to the next remains at 25 percent of a Contracting Party's initial catch quota.

The annual U.S. NALB quota of 527 mt is codified at § 635.27(e) and will remain in effect until changed (for instance, if a new ICCAT NALB TAC recommendation is adopted). Because ICCAT adopted TACs for 2014, 2015, and 2016 in Recommendation 13–05, NMFS currently anticipates that these annual base quotas would be in effect through 2016, but they will remain in place unless and until a new NALB TAC and catch limits are adopted by ICCAT.

Amendment 7 established the process by which NMFS adjusts the U.S. annual

NALB quota for any previous year's underharvest. NMFS makes such adjustments consistent with ICCAT limits and when complete catch information for the prior year is available and finalized.

Adjustment of the 2016 NALB Quota

Based on NMFS' best available information as of July 21, 2016, the total 2015 NALB catch is 247.70 mt, which is 293.61 mt less than the 2015 adjusted quota (*i.e.,* 527 mt plus 14.31 mt of 2014 underharvest carried forward to 2015, totaling 541.31 mt). Thus, the underharvest for 2015 is 293.61 mt. Per the 2013 ICCAT recommendation, only 25 percent of the total 2015 U.S. quota, or 131.75 mt, of that underharvest may be carried forward to the 2016 fishing year. Consistent with the process established in Amendment 7, the adjusted 2016 NALB quota is 527 mt plus 131.75 mt, totaling 658.75 mt.

BFT Annual Quota and Adjustment Process

Pursuant to Amendment 7, NMFS augments the Reserve category quota to the extent that underharvest from the prior year's adjusted U.S. BFT quota is available. NMFS makes such adjustments consistent with ICCAT limits and when complete catch information for the prior year is available and finalized. Consistent with the BFT quota regulations, NMFS may allocate any portion of the Reserve category quota for inseason or annual adjustments to any fishing category quota pursuant to regulatory determination criteria described at § 635.27(a)(8), or for scientific research.

NMFS implemented ICCAT Recommendation 14–05 in the BFT quota final rule in August 2015 (80 FR 52198, August 28, 2015). That rulemaking implemented Recommendation 14–05, which included a 2,000-mt western BFT TAC of 2,000 mt (for 2015 and 2016) and the recommended annual U.S. baseline quota of 1,058.79 mt. The total annual U.S. quota, including the 25 mt to account for bycatch related to pelagic longline fisheries in the Northeast Distant gear restricted area (NED) is 1,083.79 mt. The maximum underharvest that a Contracting Party may carry forward from one year to the next is 10 percent of its total quota.

The baseline annual U.S. BFT quota of 1,058.79 mt is codified at § 635.27(a) and will remain in effect until changed (for instance, if a new ICCAT western BFT TAC recommendation is adopted). Because ICCAT adopted TACs for 2015 and 2016 in Recommendation 14–05, NMFS currently anticipates that these annual baseline quotas would be in effect through 2016, but they will remain in place unless and until a new western BFT TAC and catch limits are adopted by ICCAT.

Adjustment of the 2016 BFT Reserve Category Quota

Based on NMFS' best available information as of July 21, 2016, the total 2015 BFT catch is 896.30 mt. This total catch includes 876.80 mt of landings and 19.50 mt of dead discards, which includes the best available estimate of 14.60 mt of dead discards for the pelagic longline fishery and the observed dead discards of 4.90 mt for the purse seine fishery. The total catch of 896.30 mt is 282.36 mt less than the quota available for 2015 landings and dead discards (*i.e.,* 1,083.79 mt plus 94.87 mt of 2014 underharvest carried forward to 2015, totaling 1,178.66 mt). Thus, the underharvest for 2015 is 282.36 mt. Per the 2014 ICCAT recommendation, only 10 percent of the total 2015 U.S. quota, or 108.38 mt, of that underharvest may be carried forward to the 2016 fishing year. The codified Reserve category quota is 24.8 mt. Consistent with the process established in Amendment 7, NMFS augments the Reserve category quota with 108.38 mt in this action. Effective January 1, 2016, NMFS adjusted the Reserve category quota for 2016 to 92.2 mt by reallocating 101.4 mt of Purse Seine quota to the Reserve category (based on 2015 catch by Purse Seine category participants and provisions for calculating Purse Seine allocations in Amendment 7) and also transferring 34 mt of Reserve category quota to the Longline category (81 FR 19, January 4, 2016). Thus, as of the effective date of this action (September 1, 2016), the adjusted 2016 Reserve category quota will be 200.58 mt (*i.e.,* 92.2 mt plus 108.38 mt).

Classification

The Assistant Administrator for NMFS (AA) has determined that this final rule is consistent with the Magnuson-Stevens Act, the 2006 Consolidated Atlantic HMS FMP and its amendments, ATCA, and other applicable law.

The AA finds that it would be unnecessary and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

NMFS solicited and accepted public comment on the NALB quota implementation and quota adjustment processes, along with the BFT quota adjustment process, as part of the Amendment 7 rulemaking. Comments on these provisions in response to the proposed Amendment 7 rulemaking were generally supportive and were addressed in the Response to Comments section of the Amendment 7 final rule. (See comments 18, 19, and 105 at 79 FR 71530–71531 and 71553). This action applies the formula noticed to the public in the earlier action (Amendment 7), using the best available data regarding 2015 catch and underharvest and calculating allowable underharvest consistent with ICCAT recommendations. The Amendment 7 rulemaking specifically provided prior notice of, and accepted public comment on, these formulaic quota adjustment processes and the manner in which they occur. The application of this formula in this action does not have discretionary aspects requiring additional agency consideration and thus public comment for this action would not and could not result in any changes.

There is good cause under U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make the rule effective upon publication in the **Federal Register**. The fisheries for NALB and BFT began on January 1, 2016. NMFS monitors NALB and BFT annual catch against the available quota. Delaying the effective date of these quota adjustments would unnecessarily complicate the management of the NALB and BFT fisheries, which rely on management flexibility to respond quickly to fishery conditions to ensure that fishermen have a reasonable opportunity to catch the available quota. For example, under the NALB fishery closure regulations, NMFS must close the fishery when the annual fishery quota is reached. Closure of the fishery based only on the baseline (codified) quota versus the adjusted NALB quota would preclude the fishery from harvesting NALB that are legally available consistent with the ICCAT recommendations and the 2006 Consolidated HMS FMP, as amended. Adjusting the BFT Reserve category as soon as possible provides NMFS the flexibility to transfer quota from the Reserve to other fishing categories inseason after considering the regulatory determination criteria, including fishery conditions at the time of the transfer. NMFS could not appropriately adjust the annual quotas for 2016 sooner because the data needed to make the determination only became available in late July and additional time was needed for agency analysis and consideration of the data.

Additionally, to prevent confusion and potential overharvests, these adjustments should be in place as soon as possible to allow the impacted sectors to benefit from any subsequent quota adjustments to the fishing categories, give them a reasonable opportunity to catch available quota, and provide them the opportunity for planning operations accordingly.

This action is being taken under §§ 635.27(e) and 635.27(a)(10) and is exempt from review under Executive Order 12866.

This final rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: August 25, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2016–21067 Filed 8–31–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 140904754–5188–02]

RIN 0648–BG27

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2015–2016 Biennial Specifications and Management Measures; Inseason Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces inseason changes to management measures in the Pacific Coast groundfish fisheries. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (PCGFMP), is intended to allow fisheries to access more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: This final rule is effective September 1, 2016.

FOR FURTHER INFORMATION CONTACT: Benjamin Mann, phone: 206–526–6117, fax: 206–526–6736, or email: *benjamin.mann@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at *https://www.federalregister.gov.* Background information and documents are available at the Pacific Fishery Management Council's Web site at *http://www.pcouncil.org/.* Copies of the final environmental impact statement (FEIS) for the Groundfish Specifications and Management Measures for 2015–2016 and Biennial Periods Thereafter are available from Chuck Tracy, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–820–2280.

Background

The Pacific Fishery Management Council (Council)—in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California—recommended changes to groundfish management measures at its June 21–28, 2016, meeting. Specifically, the Council recommended taking a portion of the Pacific ocean perch (POP) initially deducted from the annual catch limit (ACL) and making it available to the mothership (MS) sector; a trip limit increase for black rockfish in the limited entry fixed gear (LEFG) and open access (OA) fisheries in northern California; and trip limit reductions in the OA sablefish daily trip limit (DTL) fishery north of 36° N. lat.

Transferring POP to the Mothership Sector

As part of biennial harvest specifications and management measures, ACLs are set for non-whiting groundfish species, deductions are made "off-the-top" from the ACL to account for various sources of mortality (including scientific research activities) and the remainder, the fishery harvest guideline, is allocated among the various groundfish fisheries. The limited availability of overfished species that can be taken as incidental catch in the Pacific whiting fishery, particularly darkblotched rockfish, POP, and canary rockfish, led NMFS to implement sector-specific allocations for these species to the Pacific whiting fisheries. If the sector-specific allocation for a non-whiting species is reached, NMFS may close one or more of the at-sea sectors automatically, per regulations at § 660.60(d).

At the June, 2016 meeting, MS and catcher/processor (C/P) sectors requested more POP to accommodate higher than anticipated harvest and prevent closure of the fishery prior to harvesting their allocations of Pacific whiting.

At the start of 2016, the MS and C/P sectors of the Pacific whiting fishery were allocated 7.2 mt and 10.2 mt of POP respectively, per regulations at § 660.55(c)(1)(i)(B). According to the best fishery information available at the June 2016 meeting, POP bycatch in the MS sector was approximately double 2016 POP bycatch projections. At that time, best available information regarding bycatch rates of POP in the MS sector indicated that if those rates continued, only 53 percent (38,246 mt) of the Pacific whiting allocation would be harvested by the end of the 2016 fishery. Therefore, the Council recommended that NMFS monitor fishery harvest of Pacific whiting and POP relative to their respective at-sea sector allocations, update projections of Pacific whiting allocation attainment based on new, updated POP bycatch rates, and if necessary, transfer some POP that would otherwise go unharvested to either the MS or C/P sectors as needed.

Current projections by the Northwest Fishery Science Center indicate that approximately 3.7 mt of POP off-the-top deductions for scientific research would remain unharvested through the end of the year. As of August 11, 2016, the C/P sector has only harvested approximately 4.1 percent (0.41 mt) of its 2016 POP allocation indicating the C/P sector has sufficient POP allocation to cover their Pacific whiting harvests. However, approximately 70 percent (5.0 mt) of the total MS sector POP allocation has been harvested and only approximately 47 percent (34,256.46 mt) of the Pacific whiting allocation has been harvested. Using the most recent catch data through August 11, 2016, NMFS projects that at current rates, the MS sector will only harvest approximately 49 percent (35,486.35 mt) of its total Pacific whiting allocation (74,415 mt) before reaching the 7.2 mt POP allocation. Therefore, consistent with the Council's June recommendation to take into account the best estimates of the amount of POP available and the updated bycatch rates in the MS and C/P fisheries, NMFS is transferring 3.0 mt of POP to the at-sea sectors.

This rule transfers 3.0 mt of POP that is expected to go unharvested from the scientific research off-the-top deduction to the MS sector. This transfer increases the MS sector POP allocation from 7.2 mt to 10.2 mt. The remaining amount in the off-the-top deduction for scientific research is anticipated to go unharvested (0.7 mt) but is not transferred at this time to buffer for uncertainty in the estimates of POP harvest in scientific research. This inseason action increases the POP amount available to the MS sector, and is expected to provide opportunity for the MS sector to obtain their entire Pacific whiting allocation (72,415 mt). Transfer of POP to the MS sector, when combined with projected impacts from all other sources, is not expected to result in greater impacts to POP than the 2016 ACL. This action is also not expected to increase impacts to other overfished species from those originally projected through the end of the year.

Increase in Trip Limits for the Black Rockfish LEFG and OA Fisheries Between 42° N. Lat. and 40°10′ N. Lat.

Black rockfish are caught in nearshore commercial and recreational fisheries. Black rockfish is a healthy stock that co-occurs with nearshore overfished rockfish species (*e.g.* canary rockfish and yelloweye rockfish). Catch of black rockfish is managed, in part, to keep catch of co-occurring overfished species within the management targets for the nearshore fishery and the state of California. In 2016, reduced fishing effort as a result of poor weather and ocean conditions has significantly impacted catch rate of black rockfish in the area between 42° N. lat., and 40°10′ N. lat. for the LEFG and OA black rockfish commercial fisheries. The State of California reported 2016 black rockfish catch to be approximately 5 percent of the total allocation (19.9 mt of the 420 mt allocated). To provide the opportunity to harvest a larger portion of their allocation the Council recommended and NMFS is implementing an increase in the bimonthly trip limits for the LEFG fishery and the OA fishery between 42° N. lat., and 40°10′ N. lat. from "6,000 lbs/2 months which, no more than 1,200 lbs may be species other than black rockfish" to "7,000 lbs/2 months of which, no more than 1,200 lbs may be species other than black rockfish." The increased trip limits described above will be effective in periods 5 and 6, beginning September 1.

Reduction in Trip Limits in the OA Sablefish Fishery North of 36° N. Lat.

Reduced opportunities in other fisheries (*e.g.* crab and salmon) in 2016 have resulted in higher than normal effort in the open access sablefish fishery north of 36° N. lat. Reports from the PacFIN Quota Species Monitoring (QSM) Best Estimate Report (BER) dated June 18, 2016 indicate actual landings have been approximately double 2016 projections in the fishery. The Council's groundfish advisory panel (GAP) recommended a reduction in trip limits to reduce effort in order to avoid exceeding 2016 sablefish allocations to the fishery. The Council's GMT projected landings at the current rate of effort were 112 percent to 117 percent of the total OA allocation, through the end of the year. At its June 2016 meeting, the Council recommended and NMFS is implementing a trip limit adjustment from "300 lbs/day, or one landing per week of up to 850 lb, not to exceed 1,700 lb/2 months" to "300 lbs/day, or one landing per week of up to 750 lbs, not to exceed 1,500 lbs/2 months." Model projections through the end of the year with these adjustments show a total landing of 98 percent of the 2016 OA allocation. The reduced trip limits described above will be effective in periods 5 and 6, beginning September 1.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best available information. This document also serves as notice of an automatic action, based on the best available information. Both are consistent with the PCGFMP and its implementing regulations.

This action is taken under the authority of 50 CFR 660.60(c) and (d) and 660.140(a)(3) and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, West Coast Region, NMFS, during business hours.

NMFS finds good cause to waive prior public notice and comment on the revisions to groundfish management measures under 5 U.S.C. 553(b) because notice and comment would be impracticable and contrary to the public interest. Also, for the same reasons, NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that the regulatory changes in this final rule may become effective September 1, 2016.

At its June 2016 meeting, the Council recommended that NMFS consider a transfer of POP to the MS and C/P sectors, as needed based on the most recent fishery information. The Council recommended that the transfer be implemented as quickly as possible once the amount of POP, that would otherwise go unharvested in scientific research activities, was estimated. Updated catch information from scientific research activities became available in early August. There was not sufficient time after the June 2016 Council meeting or after research catch information was available to undergo proposed and final rulemaking before this action needs to be in effect. For the action implemented in this final rule, affording the time necessary for prior notice and opportunity for public comment would prevent transfer of POP to the MS sector until later in the season, or potentially eliminate the possibility of doing so during the 2016 calendar year entirely, and is therefore impracticable. Failing to transfer POP to the MS sector in a timely manner could result in unnecessary restriction of fisheries if the MS sector exceeded their allocations. Providing the MS sector fishermen an opportunity to harvest their limits of Pacific whiting without interruption and, when combined with harvest from other sectors, without exceeding the POP ACL, allows harvest as intended by the Council, consistent with the best scientific information available. The Pacific whiting fishery contributes a large amount of revenue to the coastal communities of Washington and Oregon and this change allows continued harvest of Pacific whiting while continuing to prevent ACLs of overfished species and the allocations for target species from being exceeded.

The Council also recommended commercial trip limit changes for black rockfish and sablefish. These changes are based on the best available information, consistent with the PCGFMP and its implementing regulations. At the June Council meeting the Council recommended that increase to black rockfish trip limits be implemented as quickly as possible during the two-month cumulative limit period and that the decrease to sablefish trip limits be implemented as quickly as possible, by the start of the next cumulative limit period. There was not sufficient time after that meeting to draft this document and undergo proposed and final rulemaking before these actions need to be in effect. For the actions to be implemented in this final rule, affording the time necessary for prior notice and opportunity for public comment would prevent NMFS from managing fisheries using the best available science to approach, without exceeding, the ACLs for federally managed species in accordance with the PCGFMP and applicable law. The adjustments to management measures in this document affect commercial fisheries off Washington, Oregon, and California. These increases to trip limits must be implemented as quickly as possible during the two-month cumulative limit period to allow OA fixed gear fishermen an opportunity to harvest higher limits of black rockfish without exceeding the ACL. The decrease to sablefish trip limits must be implemented by the start of the next two-month cumulative limit period, September 1, to prevent exceedance of the ACL and allow year-round fishing opportunities for fishermen. It would be contrary to public interest to delay implementation of these changes until after public notice and comment, because making the regulatory changes by September 1, allows harvest as intended by the Council, consistent with the best scientific information available. The increase to black rockfish trip limits allows additional harvest in fisheries that are important to coastal communities while continuing to prevent the black rockfish ACL from being exceeded. The decrease to sablefish trip limits allows continued harvest in a fishery that is important to coastal communities while continuing to prevent sablefish ACL from being exceeded.

For the actions to be implemented in this final rule, affording the time necessary for prior notice and opportunity for public comment would prevent NMFS from managing fisheries using the best available science to prevent overfishing in accordance with the PCGFMP and applicable law.

Delaying these changes would also keep management measures in place that are not based on the best available information. Such delay would impair achievement of the PCGFMP goals and objectives of managing for appropriate harvest levels while providing for year-round fishing and marketing opportunities.

Accordingly, for the reasons stated above, NMFS finds good cause to waive prior notice and comment and to waive the delay in effectiveness.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: August 29, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

■ 2. Table 2b to part 660, subpart C, is revised to read as follows:

TABLE 2b TO PART 660, SUBPART C—2016, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP

[Weight in metric tons]

Species	Area	Fishery HG or ACT	Trawl		Non-trawl	
			%	Mt	%	Mt
BOCACCIO[a]	S of 40°10′ N. lat	353.7	N/A	85.0	N/A	268.7
Canary rockfish[a b]	Coastwide	109.8	N/A	58.5	N/A	51.3
COWCOD[a c]	S of 40°10′ N. lat	4.0	N/A	1.4	N/A	2.6
DARKBLOTCHED ROCKFISH[d]	Coastwide	325.2	95	308.9	5	16.3
Petrale sole[a]	Coastwide	2,673.4	N/A	2,638.4	N/A	35.0
PACIFIC OCEAN PERCH[e]	N of 40°10′ N. lat	149.0	95	141.6	5	7.5
YELLOWEYE ROCKFISH[a]	Coastwide	13.2	N/A	1.1	N/A	12.1
Arrowtooth flounder	Coastwide	3,241	95	3,079	5	162
Chilipepper	S of 40°10′ N. lat	1,595	75	1,196	25	399
Dover sole	Coastwide	48,406	95	45,986	5	2,420
English sole	Coastwide	6,991	95	6,642	5	350
Lingcod	N of 40°10′ N. lat	2,441	45	1,098	55	1,342
Lingcod	S of 40°10′ N. lat	937	45	422	55	515
Longnose skate[a]	Coastwide	1,927	90	1,734	10	193
Longspine thornyhead	N of 34°27′ N. lat	2,969	95	2,820	5	148
Pacific cod	Coastwide	1,091	95	1,036	5	55
Pacific whiting	Coastwide	301,731	100	301,731	0	0
Sablefish	N of 36° N. lat	0	See Table 1C			
Sablefish	S of 36° N. lat	1,875	42	788	58	1,088
Shortspine thornyhead	N of 34°27′ N. lat	1,667	95	1,583	5	83
Shortspine thornyhead	S of 34°27′ N. lat	871	NA	50	NA	821
Splitnose	S of 40°10′ N. lat	1,736	95	1,649	5	87
Starry flounder	Coastwide	1,529	50	764	50	764
Widow rockfish[f]	Coastwide	1,880	91	1,711	9	169
Yellowtail rockfish	N of 40°10′ N. lat	5,314	88	4,677	12	638
Minor Shelf Rockfish complex[a]	N of 40°10′ N. lat	1,880	60.2	1,132	39.8	748
Minor Shelf Rockfish complex[a]	S of 40°10′ N. lat	1,576	12.2	192	87.8	1,384
Minor Slope Rockfish complex	N of 40°10′ N. lat	1,642	81	1,330	19	312
Minor Slope Rockfish complex	S of 40°10′ N. lat	675	63	425	37	250
Other Flatfish complex	Coastwide	7,039	90	6,335	10	704

[a] Allocations decided through the biennial specification process.

[b] 14.0 mt of the total trawl allocation of canary rockfish is allocated to the at-sea whiting fisheries, as follows: 5.8 mt for the mothership fishery, and 8.2 mt for the catcher/processor fishery.

[c] The cowcod fishery harvest guideline is further reduced to an ACT of 4.0 mt.

[d] Consistent with regulations at § 660.55(c), 9 percent (27.8 mt) of the total trawl allocation for darkblotched rockfish is allocated to the whiting fisheries, as follows: 11.7 mt for the shorebased IFQ fishery, 6.7 mt for the mothership fishery, and 9.4 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at 660.140(d)(1)(ii)(D).

[e] Consistent with regulations at § 660.55(c), 30 mt of the total trawl allocation for POP is allocated to the whiting fisheries, as follows: 12.6 mt for the shorebased IFQ fishery, 7.2 mt for the mothership fishery, and 10.2 mt for the catcher/processor fishery. The amount available to the mothership fishery was raised from 7.2 mt to 10.2 mt, by transferring 3.0 mt of the 5.2 mt initially deducted from the ACL to accunt for scientific research mortality, consistent with § 660.60(c)(3)(ii). The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at 660.140(d)(1)(ii)(D).

[f] Consistent with regulations at § 660.55(c), 500 mt of the total trawl allocation for widow rockfish is allocated to the whiting fisheries, as follows: 210 mt for the shorebased IFQ fishery, 120 mt for the mothership fishery, and 170 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at 660.140(d)(1)(ii)(D).

■ 3. Table 2 (North) to part 660, subpart E, is revised to read as follows:

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Table 2 (North) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table

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		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	4,000 lb/ 2 months					
5	**Pacific ocean perch**	1,800 lb/ 2 months					
6	**Sablefish**	1,275 lb/week, not to exceed 3,375 lb/ 2 months			1,125 lb/week, not to exceed 3,375 lb/ 2 months		
7	**Longspine thornyhead**	10,000 lb/ 2 months					
8	**Shortspine thornyhead**	2,000 lb/ 2 months			2,500 lb/ 2 months		
9 10 11 12 13 14	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.					
15	**Whiting**	10,000 lb/ trip					
16	**Minor Shelf Rockfish[2/], Shortbelly, Widow & Yellowtail rockfish**	200 lb/ month					
17	**Canary rockfish**	CLOSED					
18	**Yelloweye rockfish**	CLOSED					
19	**Minor Nearshore Rockfish & Black rockfish**						
20	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue rockfish[4/]					
21	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, of which no more than 1,200 lb of which may be species other than black rockfish				7,000 lb/ 2 months, of which no more than 1,200 lb of which may be species other than black rockfish	
22	**Lingcod[5/]**	200 lb/2 months		1,200 lb/ 2 months			600 lb/ month 200 lb/ month
23	**Pacific cod**	1,000 lb/ 2 months					
24	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
25	**Longnose skate**	Unlimited					
26	**Other Fish[6/] & Cabezon in Oregon and California**	Unlimited					

TABLE 2 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod are included in the trip limits for Minor Shelf Rockfish and splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other Fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 4. Tables 3 (North) and 3 (South) to part 660, subpart F, are revised to read as follows:

Table 3 (North) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table

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		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
See §§660.60, 660.330 and 660.333 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	Per trip, no more than 25% of weight of the sablefish landed					
5	**Pacific ocean perch**	100 lb/ month					
6	**Sablefish**	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months			300 lb/ day, or 1 landing per week of up to 850 lb, not to exceed 1,700 lb/ 2 months	300 lb/ day, or 1 landing per week of up to 750 lb, not to exceed 1,500 lb/ 2 months	
7	**Shortpine thornyheads and longspine thornyheads**	CLOSED					
8 9	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs.					
10 11 12 13		South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
14	**Whiting**	300 lb/ month					
15	**Minor Shelf Rockfish[2/], Shortbelly, Widow & Yellowtail rockfish**	200 lb/ month					
16	**Canary rockfish**	CLOSED					
17	**Yelloweye rockfish**	CLOSED					
18	**Minor Nearshore Rockfish & Black rockfish**						
19	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish					
20	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, of which no more than 1,200 lb of which may be species other than black rockfish				7,000 lb/ 2 months, of which no more than 1,200 lb of which may be species other than black rockfish	
21	**Lingcod[5/]**	100 lb/ month		600 lb/ month			100 lb/ month
22	**Pacific cod**	1,000 lb/ 2 months					
23	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
24	**Longnose skate**	Unlimited					
25	**Other Fish[6/] & Cabezon in Oregon and California**	Unlimited					

TABLE 3 (North)

Table 3 (North). Continued

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
26	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish and lingcod, as described below)*						
27	North	Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lbs of salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 200 lb per month combined limit for minor shelf rockfish, widow rockfish and yellowtail rockfish, and not in addition to that limit. Salmon trollers may retain and land up to 1 lingcod per 15 Chinook per trip, plus 1 lingcod per trip, up to a trip limit of 10 lingcod, on a trip where any fishing occurs within the RCA. This limit only applies during times when lingcod retention is allowed, and is not "CLOSED." This limit is within the per month limit for lingcod described in the table above, and not in addition to that limit. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.					
28	**PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)*						
29	North	**Effective April 1 - October 31:** Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

TABLE 3 (North) cont'd

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for minor slope rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table

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		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	40°10' N. lat. - 34°27' N. lat.	30 fm line[1/] - 150 fm line[1/]					
2	South of 34°27' N. lat.	60 fm line[1/] - 150 fm line[1/] (also applies around islands)					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
3	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	10,000 lb/ 2 months, of which no more than 475 lb may be blackgill rockfish			10,000 lb/ 2 months, of which no more than 550 lb may be blackgill rockfish		
4	**Splitnose rockfish**	200 lb/ month					
5	**Sablefish**						
6	40°10' N. lat. - 36°00' N. lat.	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months			300 lb/ day, or 1 landing per week of up to 850 lb, not to exceed 1,700 lb/ 2 months	300 lb/ day, or 1 landing per week of up to 750 lb, not to exceed 1,500 lb/ 2 months	
7	South of 36°00' N. lat.	300 lb/ day, or 1 landing per week of up to 1,600 lb, not to exceed 3,200 lb/ 2 months					
8	**Shortpine thornyheads and longspine thornyheads**						
9	40°10' N. lat. - 34°27' N. lat.	CLOSED					
10	South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
11 12 13 14 15 16	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
17	**Whiting**	300 lb/ month					
18	**Minor Shelf Rockfish[2/], Shortbelly, Widow rockfish and Chilipepper**						
19	40°10' N. lat. - 34°27' N. lat.	300 lb/ 2 months	CLOSED	200 lb/ 2 months		300 lb/ 2 months	
20	South of 34°27' N. lat.	1500 lb/ 2 months		1500 lb/ 2 months			
21	**Canary rockfish**	CLOSED					
22	**Yelloweye rockfish**	CLOSED					
23	**Cowcod**	CLOSED					
24	**Bronzespotted rockfish**	CLOSED					
25	**Bocaccio**						
26	40°10' N. lat. - 34°27' N. lat.	200 lb/ 2 months	CLOSED	100 lb/ 2 months		200 lb/ 2 months	
27	South of 34°27' N. lat.	250 lb/ 2 months		250 lb/ 2 months			

TABLE 3 (South)

Table 3 (South). Continued

TABLE 3 (South) cont'd

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
28	**Minor Nearshore Rockfish & Black rockfish**						
29	Shallow nearshore	600 lb/ 2 months	CLOSED	800 lb/ 2 months	900 lb/ 2 months	800 lb/ 2 months	1,000 lb/ 2 months
30	Deeper nearshore						
31	40°10' N. lat. - 34°27' N. lat.	700 lb/ 2 months	CLOSED	700 lb/ 2 months	900 lb/ 2 months		1,000 lb/ 2 months
32	South of 34°27' N. lat.	500 lb/ 2 months		600 lb/ 2 months			
33	California scorpionfish	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
34	**Lingcod**[4/]	100 lb/ month	CLOSED	400 lb/ month			100 lb/ month
35	**Pacific cod**	1,000 lb/ 2 months					
36	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
37	**Longnose skate**	Unlimited					
38	**Other Fish**[5/] **& Cabezon**	Unlimited					
39	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**						
40	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:**						
41	*40° 10' N. lat. - 38° 00' N. lat.*	*100 fm line*[1/] *- 200 fm line*[1/]	*100 fm line*[1/] *- 150 fm line*[1/]				*100 fm line*[1/] *- 200 fm line*[1/]
42	*38° 00' N. lat. - 34° 27' N. lat.*	*100 fm line*[1/] *- 150 fm line*[1/]					
43	*South of 34° 27' N. lat.*	*100 fm line*[1/] *- 150 fm line*[1/] *along the mainland coast; shoreline - 150 fm line*[1/] *around islands*					
44		Groundfish: 300 lb/trip. Species-specific limits described in the table above also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50' N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 31).					
45	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*						
46	South	Effective April 1 - October 31: Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of all groundfish species count toward the per day, per trip or other species-specific sublimits described here and the species-specific limits described in the table above do not apply. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for minor slope rockfish. Blackgill rockfish have a species specific trip sub-limit within the minor slope rockfish cumulative limits. Yellowtail rockfish is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

5/ "Other fish" are defined at § 660.11 and includes kelp greenling, leopard shark, and cabezon in Washington.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

[FR Doc. 2016–21091 Filed 8–31–16; 8:45 am]

BILLING CODE 3510–22–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 150818742–6210–02]

RIN 0648–XE835

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the fourth seasonal apportionment of the Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), September 1, 2016, through 1200 hours, A.l.t., October 1, 2016.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The fourth seasonal apportionment of the Pacific halibut bycatch allowance specified for the deep-water species in the GOA has been determined to be 0 metric tons (mt). This apportionment was established by the final 2016 and 2017 harvest specifications for groundfish of the GOA (81 FR 14740, March 18, 2016) and reapportionment (81 FR 45423, July 14, 2016), for the period 1200 hours, A.l.t., September 1, 2016, through 1200 hours, A.l.t., October 1, 2016.

In accordance with § 679.21(d)(6)(i), the Administrator, Alaska Region, NMFS, has determined that the fourth seasonal apportionment of Pacific halibut bycatch allowance specified for deep-water species by vessels using trawl gear in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery include sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder. This closure does not apply to fishing by vessels participating in the cooperative fishery in the Rockfish Program for the Central GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the deep-water species fishery by vessels using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 25, 2016.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 26, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–21029 Filed 8–31–16; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 170
Thursday, September 1, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2016–0064]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security U.S. Customs and Border Protection (DHS/CBP)–022 Electronic Visa Update System (EVUS) System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security is giving concurrent notice of a newly established system of records pursuant to the Privacy Act of 1974 for the "Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)–022 Electronic Visa Update System (EVUS) System of Records" and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: Comments must be received on or before October 3, 2016.

ADDRESSES: You may submit comments, identified by docket number DHS–DHS–2016–0064, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Debra L. Danisek, (202) 344–1610, Acting CBP Privacy Officer, Privacy and Diversity Office, 1300 Pennsylvania Ave. NW., Washington, DC 20229. For privacy questions, please contact: Jonathan R. Cantor, (202) 343–1717, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) proposes to establish a new DHS system of records titled, "Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)–DHS/CBP–022 Electronic Visa Update System (EVUS) System of Records." This system of records will allow DHS/CBP to collect and maintain records on nonimmigrant aliens who (1) hold a passport that was issued by an identified country approved for inclusion in the EVUS program and (2) have been issued a U.S. nonimmigrant visa of a designated category seeking to travel to the United States. The system of records will also cover records of other persons, including U.S. citizens and lawful permanent residents, whose name is provided to DHS as part of a nonimmigrant alien's EVUS enrollment. Requiring aliens holding passports of identified countries containing U.S. nonimmigrant visas of a designated category with multiple year validity will allow DHS/CBP to collect updated information. The system is used to ensure visa holder's information remains current. The information is also used to separately determine whether any admissibility issues may need to be addressed outside the EVUS enrollment process by vetting the information against selected security and law enforcement databases at DHS, including the use of CBP's TECS (not an acronym) (DHS/CBP–011 U.S. Customs and Border Protection TECS, December 19, 2008, 73 FR 77778) and the Automated Targeting System (ATS) (DHS/CBP–006 Automated Targeting System, May 22, 2012, 77 FR 30297). In addition, ATS retains a copy of EVUS enrollment data to identify EVUS enrollees who may pose a security risk to the United States. The Automated Targeting System maintains copies of key elements of certain databases in order to minimize the impact of processing searches on the operational systems and to act as a backup for certain operational systems. DHS may also vet EVUS enrollment information against security and law enforcement databases at other federal agencies to enhance DHS's ability to determine whether the enrollee poses a security risk to the United States or, although addressed through a separate process, is admissible to the United States. The results of this vetting may inform DHS's assessment of whether the enrollee's travel poses a law enforcement or security risk and whether the proposed travel should be permitted.

DHS is issuing this Notice of Proposed Rulemaking to exempt portions of DHS/CBP–022 Electronic Visa Update System (EVUS) System of Records from certain provisions of the Privacy Act. Pursuant to 5 U.S.C. 552a(j)(2), DHS will claim exemption from secs. (c)(3), (e)(8), and (g) of the Privacy Act of 1974, *as amended,* as is necessary and appropriate to protect this information. Further, DHS will claim exemption from sec. (c)(3) of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(k)(2) as is necessary and appropriate to protect this information.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate personally identifiable information. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative

Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. DHS is claiming exemptions from certain requirements of the Privacy Act for DHS/CBP–022 Electronic Visa Update System (EVUS) System of Records. Some information in DHS/CBP–022 Electronic Visa Update System (EVUS) System of Records relates to official DHS national security, law enforcement, immigration, and intelligence activities. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

In appropriate circumstances, when compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case by case basis.

A notice of system of records for DHS/CBP–022 Electronic Visa Update System (EVUS) System of Records is also published in this issue of the **Federal Register**.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend chapter I of title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for part 5 continues to read as follows:

Authority: Pub. L. 107–296, 116 Stat. 2135; (6 U.S.C. 101 *et seq.*); 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. In appendix C, add paragraph 74 to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

74. The DHS/CBP–022 Electronic Visa Update System (EVUS) System of Records consists of electronic and paper records and will be used by DHS and its components. The DHS/CBP–022 Electronic Visa Update System (EVUS) System of Records is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to the enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; and national security and intelligence activities. The DHS/CBP–022 Electronic Visa Update System (EVUS) System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (e)(8), and (g). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(2) has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(c) From subsection (g) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: August 29, 2016.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2016–21099 Filed 8–31–16; 8:45 am]

BILLING CODE 9111–14–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

[Docket No. CPSC–2016–0019]

Petition To Amend Statement of Interpretation and Enforcement Policy Regarding Labeling of Household Products Containing Methylene Chloride; Request for Comments

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of petition.

SUMMARY: The United States Consumer Product Safety Commission (CPSC or Commission) received a petition requesting that the Commission amend the agency's 1987 Statement of Interpretation and Enforcement Policy regarding labeling of household products containing methylene chloride (Policy Statement). The petition asks the Commission to expand the Policy Statement to address acute hazards from inhalation of methylene chloride vapors in addition to the chronic hazards addressed by the current Policy Statement. The Commission invites written comments concerning the petition.

DATES: The Office of the Secretary must receive comments on the petition by October 31, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2016–0019, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this proposed rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number, CPSC–2016–0019, into the "Search" box, and follow the prompts. A copy of the petition is available at *http://www.regulations.gov* under Docket No. CPSC–2016–0019, Supporting and Related Materials.

FOR FURTHER INFORMATION CONTACT: Todd Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–6833.

SUPPLEMENTARY INFORMATION: The Commission received a petition from the Halogenated Solvents Industry Alliance, Inc. (Petitioner) requesting that the Commission amend the agency's Statement of Interpretation and Enforcement Policy regarding labeling of household products containing methylene chloride (Policy Statement). The Policy Statement provides the Commission's guidance for labeling of household products containing methylene chloride, focusing particularly on paint strippers. 52 FR 34698 (Sep. 14, 1987). The Policy Statement sets forth general principles and examples for labeling to warn consumers of potential cancer hazards; it does not address acute hazards.

The Petitioner asks the Commission to expand the Policy Statement to address acute hazards from inhalation of methylene chloride vapors. Petitioner notes that the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) issued a Hazard Alert identifying at least 14 deaths associated with use of methylene chloride-containing paint strippers by professional bathtub refinishing operations (*https://www.osha.gov/dts/hazardalerts/methylene_chloride_hazard_alert.html*). Although the Petitioner refers to incidents involving workers, as the Commission's Policy Statement indicates, methylene chloride paint strippers are household products available for consumers to purchase and use. Petitioner asserts that revising the Policy Statement to give specific guidance on labeling for the acute hazard posed by inhalation of methylene chloride vapors, particularly when used in an enclosed space, such as when refinishing bathtubs, would help to prevent future fatalities.

By this notice, the Commission seeks comments concerning this petition. Interested parties may obtain a copy of the petition from the Commission's Web site: *http://www.cpsc.gov/Regulations-Laws--Standards/Rulemaking/Petitions/* or by writing or calling the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923. A copy of the petition is also available for viewing under "Supporting and Related Materials" in: *www.regulations.gov,* under Docket No. CPSC–2016–0019 .

Dated: August 2, 2016.

Todd A. Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2016–20928 Filed 8–31–16; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 15

[Docket No. FDA–2016–N–1149]

Manufacturer Communications Regarding Unapproved Uses of Approved or Cleared Medical Products; Public Hearing; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public hearing; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing a 2-day public hearing to obtain input on issues related to communications by manufacturers, packers, and distributors, including their representatives (collectively "firms"), regarding FDA-regulated drugs and medical devices for humans, including those that are licensed as biological products, and animal drugs (collectively, "medical products"). FDA is engaged in a comprehensive review of its regulations and policies governing firms' communications about unapproved uses of approved/cleared medical products, and the input from this meeting will inform FDA's policy development in this area. FDA is seeking input on a number of specific questions, but is interested in any other pertinent information participants would like to share.

DATES: The public hearing will be held on November 9 and 10, 2016, from 9 a.m. to 5 p.m. The meeting may be extended or end early depending on the level of public participation. Persons seeking to attend or present at the public hearing must register by October 19, 2016. Electronic or written comments will be accepted after the public hearing until January 9, 2017.

ADDRESSES: The public hearing will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2016–N–1149 for "Manufacturer Communications Regarding Unapproved Uses of Approved or Cleared Medical Products; Public Hearing; Request for Comments." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

A link to the live Webcast of this public hearing will be available at *http://www.fda.gov/CommunicationsPublicMeeting* on the day of the public hearing. A video record of the public hearing will be available at *http://www.fda.gov/CommunicationsPublicMeeting* following the meeting. A video record of the public hearing will be available at the same Web site address for 1 year.

FOR FURTHER INFORMATION CONTACT: Kristin Davis, Office of Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 4252, Silver Spring, MD 20993, 301–796–0418, email: *CommunicationsPublicMeeting@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is responsible for regulating medical products (*i.e.,* drugs and medical devices for humans, including those that are licensed as biological products, and animal drugs) under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) and the Public Health Service Act (PHS Act) as well as all relevant implementing regulations (collectively, "FDA Authorities") to promote and protect the public health by helping to ensure that these products are safe and effective for their intended uses. As we announced in 2014, FDA is currently engaged in a comprehensive review of the regulatory framework related to firms' communications about unapproved uses of approved/cleared medical products [1]—medical products that may be legally introduced into interstate commerce for at least one other intended use.[2] The purpose of this review is to help ensure that our implementation of the FDA Authorities (including promulgating and amending regulations, issuing guidance, developing policies, and taking enforcement action) best protects and promotes the public health in view of ongoing developments in science and technology, medicine, health care delivery, and constitutional law.

Under the FDA Authorities, in general, firms are required to submit data and other information to FDA for premarket review demonstrating a medical product is safe and effective for each of its intended uses before they introduce the product into interstate commerce for those intended uses. During FDA premarket review of medical products, the Agency also generally reviews proposed labeling for the intended use(s) of the product to ensure that the labeling provides adequate information for the safe and effective use of the product. The FDA Authorities also prohibit firms from marketing medical products with false or misleading labeling and similarly restrict certain medical product advertising.

The premarket review and labeling and advertising provisions of the FDA Authorities address critical public health objectives. The current regulatory framework was developed in response to public health tragedies, particularly those that occurred when firms could distribute drugs and devices without independent, premarket review of scientific evidence of the products' safety and efficacy.[3] Medical product firms are required to develop high-quality data to demonstrate that medical products are safe and effective for their intended uses before marketing of the products for those uses. This requirement helps ensure that the use of medical products is based on sound science, not mere anecdotal experience or misleading promotional tactics, and helps prevent direct and indirect patient harm from products and uses that are unsafe and/or ineffective. When using a medical product for its FDA approved/cleared intended use, health care professionals and patients and their caregivers can be assured that the decision to use the product is supported by robust premarket review of scientific data and other appropriate scientific evidence by an independent scientific agency and that the benefits and risks of the use are described in the product's FDA-approved or required labeling. These important assurances are absent for unapproved uses. The premarket review requirements also reflect Congress's determination that exclusive reliance on postmarket remedies, such as enforcement actions for false or misleading labeling, is unacceptable as a public health strategy because it does not prevent harm and injury to patients.

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[1] In this document, the term "unapproved use" encompasses additional intended uses of approved drugs and approved/cleared devices, including devices that are currently marketed pursuant to a 510(k) clearance or exemption.

[2] See FDA response letter, Docket Nos. FDA–2011–P–0512 and FDA–2013–P–1079 (June 6, 2014), available at *http://www.regulations.gov.*

[3] The Federal Food, Drug, and Cosmetic Act of 1938, which introduced the requirement that firms demonstrate a drug product to be safe before being marketed, followed the deaths of approximately 100 people, mostly children, from ingesting "Elixir Sulfanilamide," in which the lethal substance diethylene glycol was used as a solvent. Prior to 1938, there were no premarket requirements that mandated that the firm test its product's safety. The passage of the 1962 drug amendments was precipitated in part by the distribution of thalidomide, a sedative that caused birth defects when taken by pregnant women. *See* Wallace F. Janssen, *Outline of the History of U.S. Drug Regulation and Labeling,* 36 Food Drug-Cosm. L.J. 420 (1981). Significant problems with medical devices likewise preceded the Medical Device Amendments of 1976, including significant defects in cardiac pacemakers that led to 34 voluntary recalls involving 23,000 units, and serious side effects following implantation of intraocular lenses, including serious impairment of vision and the need to remove the eyes of some patients (H.R. Rep. No. 94–853, at 8 (1976)). *See also* Henry A. Waxman, *A History of Adverse Drug Experiences: Congress Had Ample Evidence to Support Restrictions on the Promotion of Prescription Drugs,* 58 Food & Drug L.J. 299 (2003); see also Kate Greenwood, *The Ban on "Off-Label" Pharmaceutical Promotion: Constitutionally Permissible Prophylaxis Against False and Misleading Commercial Speech?,* 37 Am. J. L. and Med. 278, 291–92 (2011) (describing the history of misleading firm claims in promoting unapproved uses).

Congress also determined that safety and effectiveness must be evaluated for each intended use of a medical product to prevent the harm that occurs when patients are prescribed or use ineffective treatments and to ensure that the benefits of an intended use outweigh its risks. Under the FDA Authorities, FDA evaluates whether a medical product is safe for a particular use by comparing the expected therapeutic benefits against the risk associated with that use. The weighing of benefit and risk for each intended use is necessary as a matter of science to protect the public health: A product considered "safe and effective" for one disease or condition or patient population cannot automatically be considered "safe and effective" for another disease or condition or patient population. For example, a drug with severe adverse effects may be considered safe and effective for treating metastatic lung cancer, but be unlikely to have a positive benefit-risk balance for treating high blood pressure. Similarly, a non-absorbable suture cleared or approved for wound closure on the skin's surface might raise significant new safety and effectiveness concerns if used internally.

Notwithstanding the importance of the FDA Authorities in protecting public health, health care professionals are generally permitted to prescribe or use approved/cleared medical products for unapproved uses when they judge that the unapproved use is medically appropriate for their individual patients,[4] and relevant, truthful, and non-misleading scientific or medical information regarding unapproved uses of approved medical products may help health care professionals make better individual patient decisions. For example, health care professionals may consider prescribing or using approved/cleared medical products for unapproved uses in circumstances where a patient has a disease for which there is no approved treatment or has exhausted all approved treatments. In such a situation, relevant, truthful, and non-misleading scientific or medical information about an unapproved use may help a health care professional to make treatment decisions in the absence of scientific data or information that is capable of satisfying FDA's premarket review requirements.

Health care professionals already can access considerable scientific information about unapproved uses, for example, through public sources such as scientific journals, clinical practice guidelines, and compendia or by requesting that information from firms.[5] FDA is interested in comment on the extent to which additional communications from firms about unapproved uses can provide access to information that is relevant, scientifically sound, responsibly presented, and provides as full an understanding as possible about the limitations of the available evidence, as well as comment on the extent to which health care professionals currently face impediments to accessing such information, whether from firms or from other sources. FDA is interested in comment and information addressing whether and in what ways firms' communications of unapproved use information are distinct and perhaps provide unique benefits compared to other sources.

Not all communications of information about unapproved uses help support public health. For example, communications that emphasize a medical product's claimed benefits, while minimizing the limitations of the supporting evidence, or minimizing the product's known or potential adverse effects, may inappropriately influence prescribing or use decisions in a manner that is not in a patient's best interest. FDA is interested in comment on both the pros and cons for public health associated with firms' communications of unapproved use information and the kinds of limitations or requirements that would be appropriate to protect patients from harm. We are also interested in any supporting data related to these issues. In addition, allowing additional communications about unapproved uses could have other indirect consequences on public health, which are important to understand and anticipate. For example, FDA is interested in information to better understand how increased communications about unapproved uses would impact incentives to conduct biomedical research submitted for FDA review and subjects' willingness to participate in such research.

The Agency is aware of technological and business changes that are increasingly affecting medical decision making and prescribing. There are a growing number of entities in the health care system with a stake in evaluating evidence to assess the rational and systematic use of medical products. As medical providers have increasingly been consolidated into integrated systems, the use of system measurements of quality and measurements of the appropriate use of medical products has increased, and insurance carriers, health care systems, and similar entities may restrict coverage for medical products based on assessments of value and employ performance measures to monitor appropriate use and outcomes. FDA is interested in understanding whether and how these changes may be able to provide an impetus for the development of additional high-quality data to address the balance of benefits and risks of each use of a medical product and, if so, in what way they would affect incentives for submission of this data to the Agency for marketing authorization.

II. Purpose and Scope of the Public Hearing

The purpose of this public hearing is to obtain comments on FDA's regulation of firms' communications about medical products, with a particular focus on firms' communications about unapproved uses of their approved/cleared medical products. FDA is seeking feedback from a broad group of stakeholders, including, but not limited to, health care professionals and professional societies, patients and their caregivers, patient advocates, representatives from regulated industry, health care organizations, payors and insurers, academic institutions, public interest groups, and the general public.

To facilitate stakeholder feedback, FDA sets forth some questions in this section. These questions are not meant to be exhaustive. We encourage interested stakeholders to address these and/or other issues related to firms' communications about their medical products. In all cases, FDA encourages stakeholders to provide the rationale and basis for their comments, including any available data and information, and to explicitly articulate any underlying assumptions. FDA also encourages commenters to explain the basis for any distinctions they would draw as to audience, vehicle of communication, type of medical product, type and source of information, or any other aspect of communication.

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[4] FDA generally does not seek to interfere with the exercise of the professional judgment of health care providers in prescribing, for unapproved uses for individual patients, most legally marketed medical products. This longstanding position has been codified with respect to devices. See 21 U.S.C. 396. While FDA generally recognizes the professional judgment of veterinarians, certain unapproved uses of drugs in animals are not permitted and result in the drug being deemed unsafe under section 512 of the FD&C Act. See section 512(a)(4) and (5) of the FD&C Act (21 U.S.C. 360b(a)(4) and (5)) and 21 CFR part 530.

[5] See "Guidance for Industry: Responding to Unsolicited Requests for Off-Label Information About Prescription Drugs and Medical Devices—Draft Guidance" (December 2011), available at *http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM285145.pdf*. FDA has also issued guidance documents to describe some of the circumstances when it would not consider a manufacturer's distribution of reprints, clinical practice guidelines, or reference texts regarding unapproved uses of approved drugs to be evidence of intended use and/or false or misleading. See "Revised Draft Guidance for Industry: Distributing Scientific and Medical Publications on Unapproved New Uses—Recommended Practices" (February 2014), available at *http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM387652.pdf* ("Revised Good Reprint Practices Draft Guidance"); and "Guidance for Industry: Good Reprint Practices for Distribution of Medical Journal Articles and Medical or Scientific Reference Publications on Unapproved New Uses of Approved Drugs and Approved or Cleared Medical Devices" (January 2009), available at *http://www.fda.gov/oc/op/goodreprint.html* ("Good Reprint Practices Guidance").

1. FDA is interested in input from stakeholders on how increased communications from firms about unapproved uses could impact the public health, and on whether the impact would differ across different categories of medical products. For example,

a. What are the benefits for clinical decision making, research, coverage, reimbursement, or other purposes (please specify) if firms communicate to health care professionals, payors, researchers, and/or patients more information, including preliminary or inconclusive information, about unapproved uses of approved/cleared medical products? What are the drawbacks and risks? Are there safeguards or requirements that would effectively mitigate any drawbacks or risks?

b. What information or systems exist to help FDA determine how firms' increased communication of information about unapproved uses of approved/cleared medical products could affect prescribing as well as medical product development and research into new uses of approved/cleared products?

c. How could firms' increased communication of information about unapproved uses of approved/cleared medical products affect patient incentives to enroll in clinical trials? Related to this, FDA is interested in information on how firms' increased communication of this information could impact their incentives to generate robust data to fully assess the risks and benefits of new uses and to apply for FDA marketing authorization for new uses of approved/cleared products.

d. Do the answers to the previous questions vary for different categories of medical products (*e.g.,* human drugs and biologics, medical devices, animal drugs) or for different disease areas or patient populations?

2. FDA is aware of changes happening in the health care system that are outside of FDA's role, which may provide an impetus for the development of high-quality data to fully assess the risks and benefits of new uses of medical products.

a. To what extent do changes occurring in the health care system that give payors and formulary committees more influence on prescribing decisions (including by denying, limiting, or endorsing coverage of unapproved uses of approved medical products) provide incentives for firms to generate the high-quality data needed to demonstrate safety and effectiveness for new uses?

b. To what extent do these changes affect (to preserve, enhance, or suppress) incentives for firms to seek FDA approval/clearance of new uses?

3. FDA recognizes that information about medical products, including information about unapproved uses of approved/cleared medical products, is now broadly available from a wide variety of sources (*e.g.,* academic and governmental organizations, scientific journals, professional societies, compendia) in both traditional and new communication vehicles and platforms, particularly electronic communication platforms (*e.g.,* the Internet). What is the impact of the increasing availability of this information on firms' incentives to communicate information about unapproved uses of approved/cleared products? FDA is also interested in input on other factors that firms may consider when making decisions about providing information about unapproved uses of their approved/cleared medical product, including financial considerations.

4. Given the importance of the scientific integrity of the information that may be relied on in making decisions about the use of medical treatments, FDA is interested in input from stakeholders on the standards that should apply to unapproved use communications to minimize the potential of these communications to be misleading or otherwise cause harm. For example:

a. Given the wide range of quality of information potentially available to firms on unapproved uses of their approved/cleared medical products, what processes do firms use to evaluate whether such information is scientifically appropriate to communicate to health care professionals and other entities?

b. What criteria should the Agency consider in determining whether a study or analysis that is the basis of a firm's communication is scientifically appropriate to support the presentations or conclusions in the communication?

c. What do health care professionals generally understand about the quality and utility of different kinds or levels of scientific evidence related to unapproved uses? Can the same information be misleading to some audiences of health professionals and not others?

d. What information is most important to health care professionals and other entities in allowing them to judge the validity and utility of firms' communications about unapproved uses, including the level of uncertainty of the evidence, and why? Does the answer to this question differ depending on the recipient's purpose—*e.g.,* making treatment decisions for an individual patient, informing the direction of further research, making formulary or institutional supply chain contracting decisions, or making coverage determinations?

5. FDA is interested in input from stakeholders on factors that the Agency should consider in evaluating whether firms' communications about unapproved uses of approved/cleared medical products are truthful and non-misleading, including what information firms should disclose in these communications to help ensure audiences are not misled, and on general considerations related to the audience for these communications and on communication vehicles and techniques. For example:

a. What information should firms communicate to make audiences aware that the medical product is unapproved for the use discussed and to otherwise distinguish between the approved/cleared use(s) of the medical product and the unapproved use? How could the means of communication affect a recipient's ability to distinguish between unapproved and approved/cleared uses or otherwise impede the disclosure of necessary contextual information?

b. What factors are most relevant to determining whether a firms' communication about a medical product concerns an unapproved use? How do firms evaluate whether or not their communications concern unapproved uses and whether the messages communicated are accurate and non-misleading?

c. What other information should firms' disclose in these communications to help ensure audiences are not misled (*e.g.,* about the risks of the product, the nature and weight of the evidence supporting the unapproved use, the regulatory history relating to the unapproved use, the financial involvement of firms in the research described, etc.)?

d. How can disclosures in firms' unapproved use communications be made most effective in conveying material information while minimizing chances of confusion or inattention? How effective are disclosures in ensuring that limitations concerning data about unapproved uses are adequately communicated and comprehended? For example, how could the content and format of disclosures be developed to optimize the usefulness of this information for audiences? FDA is interested in empirical evidence to assess whether health care professionals or other entities follow or disregard different types or formats of disclosures or disclaimers.

e. To what extent is it appropriate for firms to communicate information about unapproved uses of their approved/cleared medical products to patient and consumer audiences? What disclosures and additional information would be needed to help ensure that a communication to lay audiences is truthful and non-misleading, given consumers' lack of medical training and expertise in critically evaluating this type of information?

6. Another important consideration in the changing health care environment is transparency, including the growing expectation that data from human studies will be made available for public review. If a firm bases a communication on data that is not publicly available, should information be provided publicly to ensure that the quality and integrity of the supportive scientific information can be adequately evaluated before any prescribing or use decision? If so, how should transparency of this information be monitored?

7. FDA is interested in public input on how the Agency should monitor firms' communications about unapproved uses of their medical products, and what actions FDA should take with respect to firms' communications that are determined to be false or misleading or that otherwise raise public health issues. For example, what kinds of surveillance and monitoring could be undertaken to measure and assess the public health impacts of unapproved use communications and by whom?

8. As discussed previously, the Agency is evaluating its regulations and policies governing firms' communications about unapproved uses of approved/cleared medical products and considering whether revisions are appropriate in order to provide greater legal certainty and clarity to regulated entities. As an initial step, in the **Federal Register** of September 25, 2015 (80 FR 57756), FDA issued a notice of proposed rulemaking that proposed changes to existing regulations at 21 CFR 201.128 and 801.4 to provide clarity for drug and device firms regarding FDA's interpretation and application of its existing intended use regulations.

a. What additional changes, if any, should FDA consider in its regulations related to firms' communications about medical products, such as the regulations related to what is false or misleading, adequate directions for use, the definition of labeling, or other relevant provisions?

b. With respect to proposed alternatives to the current regulations, as well as other proposed alternatives suggested in litigation briefs and journal articles, what are the advantages and disadvantages of these approaches as they relate to the public health objectives that the FDA Authorities are designed to advance?

III. Attendance and Registration

The FDA Conference Center at the White Oak location is a Federal facility with security procedures and limited seating. Attendance is free and early registration is recommended. Individuals who wish to attend must register on or before October 19, 2016, at *http://www.fda.gov/CommunicationsPublicMeeting* and provide complete contact information, including name, title, affiliation, email, and phone number. Those without Internet access may register by contacting Kristin Davis at 301–796–0418. FDA may allow onsite registration if space is available. If registration reaches maximum capacity, FDA will post a notice closing registration at *http://www.fda.gov/CommunicationsPublicMeeting.*

Individuals who wish to present at the public hearing must register as noted at *http://www.fda.gov/CommunicationsPublicMeeting* and identify the questions (see section II) they wish to address in their presentation to help FDA organize the presentations. Individuals and organizations with common interests should consolidate or coordinate their presentations and request time for a joint presentation. FDA will do its best to accommodate requests to speak and will determine the amount of time allotted for each oral presentation and the approximate time that each oral presentation is scheduled to begin. FDA will notify registered presenters of their scheduled times and make available an agenda at *http://www.fda.gov/CommunicationsPublicMeeting* on or before November 2, 2016. Once FDA notifies registered presenters of their scheduled times, presenters must submit an electronic copy of their presentation to *CommunicationsPublicMeeting@fda.hhs.gov* by October 26, 2016.

If you need special accommodations because of a disability, please send an email to *CommunicationsPublicMeeting@fda.hhs.gov* at least 7 days before the meeting.

A link to the live Webcast of this public hearing will be available at *http://www.fda.gov/CommunicationsPublicMeeting* on the day of the public hearing. A video record of the public hearing will be available at *http://www.fda.gov/CommunicationsPublicMeeting* following the meeting. A video record of the public hearing will be available at the same Web site address for 1 year.

IV. Notice of Public Hearing Under 21 CFR Part 15

The Commissioner of Food and Drugs is announcing that the public hearing will be held in accordance with part 15 (21 CFR part 15). The hearing will be conducted by a presiding officer, accompanied by FDA senior management from the Office of the Commissioner and the relevant centers/offices.

Under § 15.30(f) (21 CFR 15.30(f)), the hearing is informal and the rules of evidence do not apply. Only the presiding officer and panel members may question any person during or at the conclusion of each presentation (§ 15.30(e)). Public hearings under part 15 are subject to FDA's policy and procedures for electronic media coverage of FDA's public administrative proceedings (21 CFR part 10, subpart C) (§ 10.203(a)). Under § 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants. The hearing will be transcribed as stipulated in § 15.30(b) (see section V). To the extent that the conditions for the hearing as described in this document conflict with any provisions set out in part 15, this notice acts as a waiver of those provisions as specified in § 15.30(h).

V. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see **ADDRESSES**). A transcript will also be available in either hardcopy or on CD–ROM, after submission of a

Freedom of Information request. The Freedom of Information office address is available on the Agency's Web site at *http://www.fda.gov.*

Dated: August 29, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–21062 Filed 8–31–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 35

[Docket No. FR–5816–P–01]

RIN 2501–AD77

Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Response to Elevated Blood Lead Levels

AGENCY: Office of Lead Hazard Control and Healthy Homes, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend HUD's lead-based paint regulations on reducing blood lead levels in children under age 6 who reside in federally-owned or -assisted pre-1978 housing and formally adopt the revised definition of "elevated blood lead levels" in children under the age of 6 in accordance with guidance of the Centers for Disease Control and Prevention (CDC), and establish more comprehensive testing and evaluation procedures for the housing where such children reside. In 2012, the CDC issued guidance revising its definition of elevated blood lead level in children under age 6 to be a blood lead level based on the distribution of blood lead levels in the national population. Since CDC's revision of its definition, HUD has applied the revised definition to funds awarded under its Lead-Based Paint Hazard Control grant program and its Lead Hazard Reduction Demonstration grant program, and has updated its Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing to reflect this definition. CDC is continuing to consider, with respect to evolution of scientific and medical understanding, how best to identify childhood blood lead levels for which environmental interventions are recommended. Through this rule, HUD formally adopts through regulation the CDC's approach to the definition of "elevated blood lead levels" in children under the age of 6 and addresses the additional elements of the CDC guidance pertaining to assisted housing.

DATES: *Comment Due Date:* October 31, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. *It is not acceptable to submit comments by facsimile (fax).* Again, all submissions must refer to the docket number and title of the rule.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Warren Friedman, Office of Lead Hazard Control and Healthy Homes, Department of Housing and Urban Development, 451 7th Street SW., Room 8236, Washington, DC 20410–3000, telephone number (202) 402–7698 or email your inquiry to *lead.regulations@hud.gov.* For legal questions, contact John B. Shumway, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, Room 9262, Washington, DC 20410–0500; telephone number (202) 402–5190. The above telephone numbers are not toll-free numbers. Hearing and speech-impaired persons may access the above telephone numbers via TTY by calling the toll-free Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. HUD's Long-Term and Ongoing Efforts To Reduce Lead Poisoning in Children

Childhood lead poisoning has long been recognized as causing reduced intelligence, low attention span, reading and learning disabilities, and has been linked to juvenile delinquency, behavioral problems, and many other adverse health effects. Current reviews by the U.S. Department of Health and Human Services (HHS), including by its Agency for Toxic Substances and Disease Registry (ATSDR) and National Institute of Environmental Health Sciences (NIEHS) and by the U.S. Environmental Protection Agency (EPA) Office of Research and Development have described these effects in detail.[1] The removal of lead-based gasoline and paint from commerce has drastically reduced the number of children exposed to levels of lead associated with the most significant among these problems. Data from CDC's National Center for Health Statistics show that mean blood lead levels among children ages 1 to 5 dropped from 16.0 µg/dL in 1976–1980 to 2.6 µg/dL in 1991–1994, to 0.97 µg/dL in 2011–2012.[2] However, national statistics mask the fact that blood lead monitoring continues to find some children exposed to elevated blood lead levels due to their specific housing environment. As sources of lead paint sources have decreased, focus has increased on other sources of exposures, including legacy water pipes in homes and schools.

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[1] See the following: Agency for Toxic Substances and Disease Registry. Toxicological profile for lead. Atlanta: U.S. Department of Health and Human Services (HHS), August 2007. *www.atsdr.cdc.gov/toxprofiles/tp13.pdf.* HHS, National Institute of Environmental Health Sciences, National Toxicology Program. NTP Monograph on Health Effects of Low-Level Lead. NIH Publication No. 12–5996. June 13, 2012. *http://ntp.niehs.nih.gov/pubhealth/hat/noms/lead/index.html.* Office of Research and Development. Integrated Science Assessment for Lead. Research Triangle Park, NC. U.S. Environmental Protection Agency (EPA), June 2013. *https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=255721.* (See esp. pp. lxxxvii–lxxxviii, and 1–20—1–24. See also Memo Regarding a Study Assessed in the 2013 ISA for Lead—Dated May 9, 2014. *http://ofmpub.epa.gov/eims/eimscomm.getfile?p_download_id=518543.*)

[2] Porter, K. National Health and Nutrition Examination Survey. 2015 National Conference on Health Statistics, August 24, 2015, *www.cdc.gov/nchs/ppt/nchs2015/Porter_Monday_SalonE_A6.pdf.* p. 48.

In 2014, the CDC noted that, "Lead-based paint and lead contaminated dust are the most hazardous sources of lead for U.S. children," [3] reaffirming their 2005 Statement on preventing lead poisoning in young children that, "lead-based paint is the most important source of lead" exposure for young children.[4] Continued progress in lead paint abatement and interim control over the last decade, such as through HUD's lead hazard control grant programs discussed below, and the lead hazard control work required of landlords under settlements HUD has reached in enforcing the Lead Disclosure Statute and that statute's Rule (42 U.S.C. 4852d; 24 CFR 35, subpart A) has meant further significant decreases in lead exposure among children.

Even so, there are a considerable number of assisted housing units that have lead-based paint in which children under age 6 reside. As detailed in the regulatory impact assessment accompanying this notice, there are about 4.3 million housing units in the assistance programs covered by this rulemaking (1.1 million public housing, 1.2 million project-based rental assistance, and 2.0 million tenant-based rental assistance units), of which about 450,000 are estimated to have been built before 1978 and have children under age 6 residing (about 110, 130, and 210 thousand units, respectively). Of those units, about 57,000 units are estimated to have lead-based paint hazards (about 14, 16, and 27 thousand, respectively).

Health concerns have also been documented for adults exposed to high levels of lead from occupational exposures and to some extent from hobbies and other product or environmental sources, such as what might be associated with workers conducting lead hazard control activities; see, *e.g.*, the Occupational Safety and Health Administration's (OSHA's) Lead standards, one for general industry and one for the construction industry (29 CFR 1910.1025 and 1926.62, respectively); see OSHA's Safety and Health Topics Web page on the health effects of high lead exposure in exposed workers; [5] the CDC/National Institute for Occupational Safety and Health (NIOSH) guides on lead for public health officials and researchers,[6] and for workers; [7] and the ATSDR Toxicological Profile for lead and the EPA Integrated Science Assessment for Lead cited above (fn. 1).[8]

B. Authority for HUD's Lead-Based Paint Regulations

HUD's Lead-Based Paint regulations designed to reduce lead exposure in federally-owned and federally-assisted housing (sometimes, for brevity, referred to here as "assisted housing"), referred to as the Lead Safe Housing Rule (LSHR), are found in title 24 of the Code of Federal Regulations (CFR) part 35, subparts B through R. The LSHR implements the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992), specifically, the LSHR implements sections 1012 and 1013 of Title X (42 U.S.C. 4822). One of the purposes of the LSHR is to ensure, as far as practicable, that federally-owned or federally–assisted housing that may have lead-based paint, which is most housing constructed prior to 1978 (called "target housing") [9] does not have lead-based paint hazards.

As reflected in the LSHR and consistent with Title X, HUD's primary focus is on minimizing childhood lead exposures, rather than on waiting until children have elevated blood lead levels (see section I.B, below) to undertake actions to eliminate the lead-based paint hazards or the lead-based paint. HUD's Office of Lead Hazard Control and Healthy Homes' (OLHCHH's) ongoing efforts in lead poisoning prevention—*i.e.,* acting before children are exposed to lead such that they develop an elevated blood lead level—were recognized in the HUD's *Healthy Homes Strategic Plan.*[10] As noted in that document, HUD's OLHCHH has administered a successful Lead Hazard Control program since 1993. Through robust grants, enforcement efforts, research, and outreach, this program has been instrumental in the reduction of 84 percent in childhood blood lead levels of 10 μg/dL or more from 1988–1991 to 1999–2004 [11] and least an estimated 97 percent through 2014.[12] The success of HUD's OLHCHH comes from taking all actions feasible and authorized to reduce lead exposure in children, and these actions include providing conditions of funding through the office's notices of funding availability, updating guidelines and best practices, and working collaboratively with other Federal agencies such as the U.S. Department of Health and Human Services (HHS), particularly its CDC, and the U.S. Environmental Protection Agency (EPA), to name a few.[13]

CDC has recognized that the "HUD Lead Hazard Control Program . . . is the most easily identifiable and largest source of federal funding for lead-hazard remediation." [14] HUD notes that that program, which implements section 1011 of Title X (42 U.S.C. 4852) does not address all types of housing with which HUD is associated. Specifically, section 1011 prohibits housing that is

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[3] Centers for Disease Control and Prevention (CDC). Lead. Prevention Tips. June 19, 2014. Sec. 2, par. 1. *www.cdc.gov/nceh/lead/tips.htm.*

[4] CDC. Preventing Lead Poisoning in Young Children. A Statement by the Centers for Disease Control and Prevention. August 2005. p. 4. *www.cdc.gov/nceh/lead/publications/PrevLeadPoisoning.pdf.*

[5] OSHA Salt Lake Technical Center. Lead. Health Effects. *https://www.osha.gov/SLTC/lead/healtheffects.html.*

[6] NIOSH. LEAD. Information for Public Health Officials and Researchers. *www.cdc.gov/niosh/topics/lead/publichealth.html.*

[7] NIOSH. LEAD. Information for Workers. *www.cdc.gov/niosh/topics/lead/health.html.*

[8] As discussed below, while the focus of HUD's existing Rule (Lead Safe Housing Rule) (24 CFR 35, subparts B–R) proposed to be amended by this rulemaking is the protection of the health of children under age 6, the currently codified Rule also addresses protection of all occupants in dwelling units covered by the Rule (see, *e.g.,* § 35.1345), and workers conducting lead-related activities in housing covered by the Rule (see, *e.g.,* § 35.145).

[9] HUD's regulations, at 24 CFR 35.110, based on the Title X definition at 42 U.S.C. 4851b (27), define "target housing" as "any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless a child of less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero- bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, HUD may designate an earlier date." (Note that HUD has not made any such designations.)

[10] HUD. Leading Our Nation to Healthier Homes: The Healthy Homes Strategic Plan. July 9, 2009. *http://portal.hud.gov/hudportal/documents/huddoc?id=hhstratplan_7_9_09.pdf.*

[11] Dropping from 8.6% to 1.4%. Jones, R., et al. Trends in Blood Lead Levels and Blood Lead Testing Among U.S. Children Aged 1 to 5 Years, 1988–2004. Pediatrics Vol. 123 No. 3 March 2009, pp. E376–E385. *http://pediatrics.aappublications.org/content/123/3/e376.*

[12] Dropping from 1.4% to an estimated 0.28% or less, based on the 2.5% of children with blood lead levels at or above 5 μg/dL (see section I.B, below) and data collected by CDC's national surveillance program on blood lead testing data, comparing the numbers of children with blood lead levels at or above 5 μg/dL with those at or above 10 μg/dL in CDC. Number of Children Tested and Confirmed BLL's ≥10 μg/dL by State, Year, and BLL Group, Children < 72 Months Old. *www.cdc.gov/nceh/lead/data/Web site_StateConfirmedByYear_1997_2014_01112016.xlsx.*

[13] See Advancing Healthy Housing, a Strategy for Action at *http://portal.hud.gov/hudportal/documents/huddoc?id=stratplan_final_11_13.pdf.*

[14] CDC. CDC Response to Advisory Committee on Childhood Lead Poisoning Prevention Recommendations in "Low Level Lead Exposure Harms Children: A Renewed Call of Primary Prevention." (CDC Response.) Atlanta, June 7, 2012. (Corrected from initial release May 13, 2012) *www.cdc.gov/nceh/lead/acclpp/cdc_response_lead_exposure_recs.pdf.*

"federally assisted housing, federally owned housing, or public housing" from being enrolled under the section's grants. Indeed, Congress required lead hazard evaluation and control in precisely those three categories of housing when it enacted sections 1012 and 1013 of Title X, under which the LSHR was issued, so that the lead hazard control grants and the LSHR complement each other in the housing stock they address.

HUD emphasizes that the scope of its authority under Title X is limited to lead-based paint hazard reduction in housing, and the scope of this rule is further limited to the reduction of those hazards in HUD-assisted housing. HUD is authorized by Title X to control lead-based paint and lead-based paint hazards in certain HUD-assisted target housing. Lead-based paint hazards are lead-based paint and all residential lead-containing dusts and soils regardless of the source of the lead, which, due to their condition and location, would result in adverse human health effects. Title X required the EPA to promulgate standards for lead-based paint hazards, specifically, paint-lead hazards, dust-lead hazards, and soil-lead hazards, which it did through rulemaking.[15] HUD has incorporated the EPA's lead-based paint hazard standards in the LSHR.[16] Controlling exposures to lead from water is outside of HUD's authority under Title X. The EPA also has responsibilities regarding lead-based paint under Title X, and the EPA administers other laws regulating lead, including the Clean Air Act, Clean Water Act, Safe Drinking Water Act, Resource Conservation and Recovery Act, and Comprehensive Environmental Response, Compensation, and Liability Act, among others.[17]

C. CDC's Revised Guidance on Elevated Blood Lead Levels

Until 2012, children were identified by CDC as having a blood lead "level of concern" if testing found 10 or more micrograms per deciliter of lead in the blood (10 µg/dL). In 2012, CDC revised its guidance on childhood lead poisoning in response to recommendations by CDC's Advisory Committee on Childhood Lead Poisoning Prevention (ACCLPP), which concluded that a growing number of scientific studies show that even low blood lead levels can cause lifelong health effects. CDC accepted the recommendation of the ACCLPP to eliminate its use of the term and concept of "blood lead level of concern." [18] CDC is instead using a "reference range value" to identify children who have been exposed to lead and who require case management. CDC uses the phrase, "to identify persons whose exposure to a toxic substance is higher than that of most persons in the population and useful in instances when no clear threshold for effects has been identified," as is the case for childhood blood lead levels.[19]

Consistent with the ACCLPP recommendation II that CDC link lead levels in its guidance to results from CDC's National Health and Nutritional Examination Survey (NHANES),[20] the CDC's "reference range value" method for defining elevated blood lead levels (EBLLs) is based on the blood lead level equaled or exceeded by 2.5 percent of U.S. children aged 1–5 years as determined by NHANES. CDC's current reference range level is 5 µg/dL (5 micrograms of lead per deciliter). This level, established in 2012 as part of CDC's response to ACCLPP, is lower than CDC's former blood lead level of concern, established in its 1991 Statement,[21] which had been 10 µg/dL, and its level for recommending environmental intervention for children, 20 µg/dL, or 15 µg/dL if that level persists, levels that it reaffirmed in its 2005 Statement.[22] This new lower value means that more children will likely be identified as having lead exposure, allowing parents, doctors, public health officials and communities to take action earlier to reduce the child's future exposure. It is important to note that by CDC's tying its reference value to the national distribution of blood lead levels, the reference level will continue to decrease whenever progress is made on reducing childhood lead exposure. For instance, if the 97.5 percentile drops to 2 µg/dL due to reductions in exposure to lead paint exposure, the number of children who have lead exposures above the new reference value would change only slightly, based on the growth of the national population of children under age 6, which would be about 2 percent over CDC's four-year reference range value updating period.[23] CDC concurred in principle with the ACCLPP recommendation to adopt a reference range that is tied to the national distribution of blood lead levels (CDC Response to ACCLPP recommendation II.)

HUD's currently codified LSHR, at 24 CFR 35.110 (the definition section), uses the term "environmental intervention blood lead level" (EIBLL). EIBLL is the blood lead level at which an evaluation for lead-based paint hazards and interim controls of such hazards identified (*i.e.,* a type of environmental intervention) are to be conducted in certain housing covered by the LSHR. Specifically, HUD defined EIBLL as "a confirmed concentration of lead in whole blood equal to or greater than 20 µg/dL for a single test or 15–19 µg/dL in two tests taken at least 3 months apart." HUD's definition is consistent with the guidance issued by CDC in November 1997, *i.e.,* shortly before the LSHR was published on September 15, 1999, at 64 FR 50139–50231. CDC's 1997 guidance was that a blood lead level of 10–14 µg/dL should trigger monitoring, certain parental actions, and perhaps community-wide education, but not lead hazard control in an individual child's home.[24] At the time that HUD was developing the LSHR, CDC did not recommend a full home inspection or assessment in response to blood lead levels below 15 µg/dL. CDC's revised guidance uses a reference range value to trigger the identification of conditions in the environment associated with lead-exposure hazards. CDC's revised guidance recommends that children under age 6 should not live or spend significant time in homes with lead-exposure hazards (CDC Response to ACCLPP recommendations II and III).

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[15] 15 U.S.C. 2683, implemented by EPA at 40 CFR 745.65 and 745.227(e)(8)(vii).

[16] 24 CFR 35.110, 35.1315, 35.1320(b)(2), and 35.1325.

[17] See *https://www.epa.gov/lead/lead-laws-and-regulations* for more information.

[18] See Advisory Committee on Childhood Lead Poisoning Prevention. Low Level Lead Exposure Harms Children: A Renewed Call for Primary Prevention. Atlanta, January 4, 2012. *www.cdc.gov/nceh/lead/acclpp/final_document_030712.pdf.* The ACCLPP's charter expired in October 2013. Activities in the Committee's field of interest are now conducted by the Childhood Lead Poisoning Prevention Subcommittee of the CDC's Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (NCEH/ATSDR). See, *e.g., www.atsdr.cdc.gov/science/docs/BSC_MINUTES_MAY_2014.pdf.*

[19] Raymond J., Wheeler W., Brown, M.J. Lead Screening and Prevalence of Blood Lead Levels in Children Aged 1–2 Years—Child Blood Lead Surveillance System, United States, 2002–2010 and National Health and Nutrition Examination Survey, United States, 1999–2010. Morbidity and Mortality Weekly Report. v. 63, n. 2, p. 36–42. September 12, 2014. *www.cdc.gov/mmwr/preview/mmwrhtml/su6302a6.htm.*

[20] CDC National Center for Health Statistics, National Health and Nutrition Examination Survey. Homepage at *www.cdc.gov/nchs/nhanes.htm.*

[21] CDC. Preventing Lead Poisoning in Young Children. A Statement by the Centers for Disease Control, chap. 8. October 1991. *www.cdc.gov/nceh/lead/publications/books/plpyc/contents.htm.*

[22] CDC. Preventing Lead Poisoning in Young Children. A Statement by the Centers for Disease Control and Prevention. August 2005. p. 2. *www.cdc.gov/nceh/lead/publications/PrevLeadPoisoning.pdf.*

[23] Calculated based on Table 1, Population by Sex and Selected Age Groups: 2000 and 2010, in Howden L.M. and Meyer J.A. U.S. Census Bureau. Age and Sex Composition 2010. 2010 Census Briefs. C2010BR–03. May 2011. Page 2. *www.census.gov/prod/cen2010/briefs/c2010br-03.pdf.*

[24] CDC. Screening Young Children for Lead Poisoning: Guidance for State and Local Public Health Officials. Chapter 4. Role of Child Health-Care Providers in Childhood Lead Poisoning Prevention. Atlanta. November 1997. *www.cdc.gov/nceh/lead/publications/screening.htm.*

Although HUD has not yet conformed the LSHR to reflect the CDC's 2012 revised approach for establishing the definition of EBLL, HUD's *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* (HUD *Guidelines*) second edition (2012), which provide guidance information regarding evaluation and hazard reduction activities described in the LSHR (24 CFR 35.1310(a)), adopted CDC's reference range value method for defining an EBLL.[25] In addition, HUD has implemented use of CDC's revised definition in both of its lead hazard control grant programs—the Lead-Based Paint Hazard Control grant program and the Lead Hazard Reduction Demonstration grant program—in the annual notices of funding availability (NOFAs) issued for these programs commencing in fiscal year 2013,[26] the first NOFAs issued after CDC revised its guidance, advising the grantees of grants awarded under those NOFAs to use the definition to prioritize enrollment of housing units for lead hazard control work.

ACCLPP recommendation X was that CDC adopt prevention strategies to reduce environmental lead exposures in soil, dust, paint, and water before children are exposed. As part of its response, CDC noted that it would continue to emphasize the importance of environmental assessment and mitigation of lead hazards before children are exposed (CDC Response to ACCLPP recommendation X).

ACCLPP recommendation XI was that, "If lead hazards trigger a response in any unit in a multi-family housing complex, the same response action should be applied to all similar untested units in the housing complex, unless a risk assessment demonstrates that no lead hazards are present in the other units." In response, CDC concurred with the evidence suggesting that a building that houses one child with lead poisoning is an indication that other children in that building are likely at risk (CDC Response to ACCLPP recommendation XI).

D. Response to CDC Guidance

HUD has been implementing primary prevention—the strategy of emphasizing preventing exposure rather than responding after the exposure has taken place[27]—since before CDC responded to the ACCLPP recommendations, specifically, implementing most of those recommendations that pertain to HUD.

Regarding the CDC Response to ACCLPP recommendation II, on using the reference range value, as noted above, HUD issued the second edition of its *Guidelines,* which included information on environmental interventions based on CDC's revised approach to EBLL,[28] and used the revised definition in its NOFAs for its Lead Hazard Control Grant Programs starting with the first NOFA after the CDC Response was published.

Regarding the CDC Response to ACCLPP recommendation III, on primary prevention, one of the purposes of the LSHR, as noted above, is to ensure, as far as practicable, that federally-owned or federally-assisted target housing does not have lead-based paint hazards. Assisted target housing covered by the rule is assessed for hazards before the assisted occupants move in; controls before occupancy are required when hazards are identified; when the assistance is ongoing, ongoing lead-based paint maintenance is required, periodic re-evaluations for the presence of lead hazards are conducted, and hazards are controlled, and occupants are notified of the results—all of these actions are independent of, and precede, children's blood lead levels increasing as a result of lead-based paint hazards in their housing.

Regarding the CDC Response to ACCLPP recommendation VI, that clinicians report EBLL cases to local and state health and/or housing departments, the LSHR includes, in the subparts pertaining to ongoing assistance for target housing, the requirement that the owner (or other "designated party" responsible for the assistance under the rule) promptly report the name and address of a child identified as having an EIBLL to the public health department within 5 business days of being so notified by any other medical health care professional.[29]

Regarding the CDC Response to ACCLPP recommendation VII, HUD has long been engaged in educating families, service providers, advocates, and public officials on primary prevention of lead exposure in homes, through outreach campaigns, development, publication and distribution of brochures, flyers, manuals, and guidance documents, training of housing sector stakeholders, and supporting the EPA's National Lead Information Center, which provides the general public and professionals with information about lead, lead hazards, and their prevention.[30]

Regarding the CDC Response to ACCLPP recommendation VIII, HUD has long facilitated data-sharing between health and housing agencies, promoted preventive lead-safe housing standards for target housing, identifying financing for lead hazard remediation, and provided families with the information needed to protect their children from hazards in the home. For example, as far back as 1990, in its Interim Guidelines on addressing lead hazards in public and Indian housing, HUD encouraged public housing agencies to collaborate with health departments on, *e.g.,* encouraging blood lead screening and development of outreach materials, sharing data about cases of high blood lead levels in children, then called "lead poisoning" or elevated blood lead level (albeit with the different quantitative meaning at that time), referring children to a lead hazard control program,[31] and the Department has continued these efforts since then.

Regarding the CDC Response to ACCLPP recommendation X, which emphasizes the importance of environmental assessments to identify and mitigate lead hazards as a primary prevention technique, as noted above, the LSHR requires this of all of the assisted housing covered by the rule.

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[25] See *http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/lbp/hudguidelines,* HUD Guidelines, esp. chapter 16, Investigation and Treatment of Dwellings that House Children with Elevated Blood Lead Levels.

[26] HUD Office of Lead Hazard Control and Healthy Homes. Notice of Funding Availability for HUD's Fiscal Year (FY) 2013 Lead-Based Paint Hazard Control Grant Program and Lead Hazard Reduction Demonstration Grant Program. December 3, 2012. *http://portal.hud.gov/huddoc/2013leadcombonofa.pdf.* FY 2014 Lead-Based Paint Hazard Control (LBPHC) Grant Program and Lead Hazard Reduction Demonstration (LHRD) Grant Program. May 13, 2014. *http://portal.hud.gov/hudportal/documents/huddoc?id=2014leadcombonofa.pdf.* FY 2015 Lead-Based Paint Hazard Control (LBPHC) Grant Program. May 7, 2015. *http://portal.hud.gov/hudportal/documents/huddoc?id=2015lbphcnofa.pdf.* FY 2015 Lead Hazard Reduction Demonstration (LHRD) Grant Program. May 7, 2015. *http://portal.hud.gov/hudportal/documents/huddoc?id=2015lhrdnofa.pdf.* Lead-Based Paint Hazard Control (LBPHC) Grant Program for FY 2016. *http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/grants/fundsavail/nofa16/lbphc.* Lead Hazard Reduction Demonstration (LHRD) Grant Program for FY 2016. *http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/grants/fundsavail/nofa16/lhrd.*

[27] CDC Response. *op. cit.*

[29] 24 CFR 35.730(e), 830(d), 1130(e), 1225(e).

[30] See, *e.g.,* EPA. Lead Hotline—The National Lead Information Center. *https://www.epa.gov/lead/forms/lead-hotline-national-lead-information-center.*

[31] HUD Office of Public and Indian Housing. Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing. September 1990.

Similarly, on the item that CDC adopt prevention strategies to reduce environmental lead exposures in soil, dust, paint, and water before children are exposed, under the LSHR, as noted above, HUD has been implementing the prevention strategy to reduce environmental lead exposures in soil, dust, and paint, the media for which it has authority to do so under Title X. Regarding lead exposures from water, see the EPA Integrated Science Assessment for Lead.[32]

Regarding several additional ACCLPP recommendations, HUD has been implementing the CDC response since the issuance of the CDC Response.

Regarding the recommendation XIII, specifically, the element of the recommendation that has a housing connection, on CDC improving the use of data from screening programs, HUD and CDC collaborated on matching addresses of HUD-assisted residents with national health survey data to develop a method for improving the targeting of lead hazard control efforts and resources.[33] HUD will continue seeking ways it can contribute to CDC's efforts in this regard.

II. Regulatory Approach

Although HUD is already applying the CDC's 2012 revised definition of EBLL in its lead hazard control NOFAs and in its *Guidelines,* the LSHR has not yet been updated to reflect the CDC's revised definition of EBL. During this time, federal agencies involved with reducing childhood lead exposures, including HUD, CDC, EPA and NIEHS, have continued to explore how best to use scientific and medical information to approach the problem of childhood lead exposures and develop approaches for prioritizing action within the limits of available resources. To keep HUD's criterion for requiring environmental intervention in response to a child having a sufficiently high blood lead level to warrant such action in synchrony with CDC's approach for determining when environmental intervention is recommended, this rule therefore proposes to revise the LSHR to adopt the CDC's approach to establishing a blood lead level for which CDC recommends environmental intervention, *i.e.,* a trigger level for environmental intervention as the definition of EBLL in the LSHR, and apply it to determining when environmental interventions in federally-assisted and federally-owned target housing covered by the rule are to be conducted. In addition, this rule proposes to change the LSHR to reflect other CDC guidance responding to the ACCLPP recommendations, and to make additional improvements based on HUD's experience with implementing the LSHR in order to further strengthen prevention strategies in federally-assisted and federally-owned target housing.

Specifically, HUD is proposing to revise the LSHR regarding target housing covered by the five subparts of the LSHR that are related to children under age 6 exposed to lead in housing where the Federal Government maintains a continuing financial or ownership relationship. HUD proposes to implement the recommendations of the CDC, within the scope of HUD's authority, and in consideration of available federal resources. The five subparts currently use the EIBLL threshold for undertaking an environmental response.

HUD is proposing to revise these subparts to use the CDC's approach for determining when a child's blood lead level triggers the environmental response. The following types of federal housing assistance are covered in 24 CFR part 35 subparts for which an environmental intervention may be required:

D—Project-Based Assistance Provided by a Federal Agency other than HUD
H—Project-Based Assistance
I—HUD-Owned and Mortgagee-in-Possession Multifamily Property
L—Public Housing Programs
M—Tenant-Based Rental Assistance

Provisions proposed to be revised within the individual subparts are described below.

In regard to housing for which the current rule requires response to EIBLL cases and this proposed rule would require response to EBL cases, the following types of hazard evaluation and reduction activities are required, whether or not a child with an EIBLL resides or is expected to reside in a unit covered by the LSHR:

Lead-based paint inspection: Subparts I and L. This is a surface-by-surface investigation to determine the presence (including the location) of lead-based paint and providing a report explaining the results of the investigation.

Hazard Evaluation:

- Risk Assessment: Subparts D, H (assistance over $5,000 per unit per year), and I. Lead risk assessments involve visual assessment for deteriorated paint, testing of deteriorated paint to determine if it is lead-based paint (and thus, a lead-based paint hazard because of the deterioration), dust wipe sampling of window sills and floors, and sampling of bare soil.
- Visual assessment for deteriorated paint: Subparts H (assistance up to $5,000 per unit per year), M
- Reevaluation: Subparts D, H (assistance over $5,000 per unit per year), I and L. Reevaluations involve a visual assessment of painted surfaces and limited dust and soil sampling conducted periodically following lead-based paint hazard reduction where lead-based paint is still present.
- Periodic inspection for deteriorated paint: Subpart M: These periodic inspections are conducted as part of the inspection of the assisted housing.

Hazard Reduction:

- Abatement of LBP hazards: L (during comprehensive modernization). Abatement is set of measures designed to permanently (for an expected design life of at least 20 years) eliminate lead-based paint or lead-based paint hazards Abatement includes: Removing lead-based paint and dust-lead hazards, permanently enclosing or encapsulating lead-based paint, replacing components or fixtures painted with lead-based paint, and removing permanently covering soil-lead hazards; along with all the preparation, cleanup, disposal, and post-abatement reoccupancy clearance testing activities associated with those measures.

Interim controls of LBP hazards: Subparts D, I, and L (pending abatement during comprehensive modernization). Interim controls are measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. They include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance for tenant reoccupancy after projects that involve paint disturbance larger than the *de minimis* amounts specified in the rule,[34] ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.

Paint stabilization: Subparts H (assistance up to $5,000 per unit per year), M. Paint stabilization involves repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.

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[32] EPA. Integrated Science Assessment for Lead. See fn. 1.

[33] The abstract from this research will be published in the conference program for the Epidemiology Congress of the Americas' conference, June 21–24, 2016 (*https://epiresearch.org/2016-meeting/*). The full abstract citation will be inserted here at that time, and when the article is published, that article's citation will be inserted here.

[34] 24 CFR 35.1350(d): 20 square feet on exterior surfaces, 2 square feet in any one interior room or space, or 10 percent of the total surface area on an interior or exterior type of component with a small surface area (*e.g.,* window sills, baseboards, and trim).

Lead hazard evaluation and control activities in HUD-assisted and HUD-owned housing are subject to the requirements of the applicable civil rights laws, including the Fair Housing Act as amended (for example, by the Fair Housing Amendments Act), and its prohibition of discrimination on the basis of disability or familial status (including the presence of a child under age of 18, or of a pregnant woman), Title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race, color, and national origin), Title IX of the Education Amendments of 1972 (prohibiting discrimination on the basis of sex), and section 504 of the Rehabilitation Act of 1973 (prohibiting discrimination on the basis of disability). These laws, and their associated HUD regulations[35] and guidance[36] are incorporated into the LSHR through its § 35.145, Compliance with Federal laws and authorities. The applicability of the fair housing laws, regulations, and guidance to these activities would continue without change by this proposed rule.

A. Response to Young Children With Elevated Blood Lead Levels

In updating the LSHR to reflect the CDC's approach to defining EBL, within the scope of HUD's authority, HUD is proposing to shift its threshold for environmental intervention from the environmental intervention blood lead level (EIBLL), as described above, to the elevated blood lead level (EBLL) that is identified in CDC's guidance for recommending a childhood blood lead level such that an environmental intervention should be conducted, at any given point in time. In 2012, CDC's guidance used the reference range value, which had the numerical value of 5 µg/dL; HUD would continue to rely on CDC's guidance, whether CDC's approach continued to use the reference range value or used another criterion. In addition, this rule proposes to revise the type of hazard control undertaken when lead-based paint or other hazards are identified and, in the case of housing projects with more than one unit, address lead-based paint hazards in those other units in which children under age 6 reside.

The approach to implementing the regulatory protocol under this proposed rulemaking is founded on the currently codified LSHR, the CDC guidance on blood lead reference levels, the HUD *Guidelines,* and HUD's experience implementing the LSHR since its 1999 promulgation. Figure 1 provides an overview of the proposed protocol for addressing elevated blood lead level cases in assisted housing covered by the LSHR; its details are discussed below.

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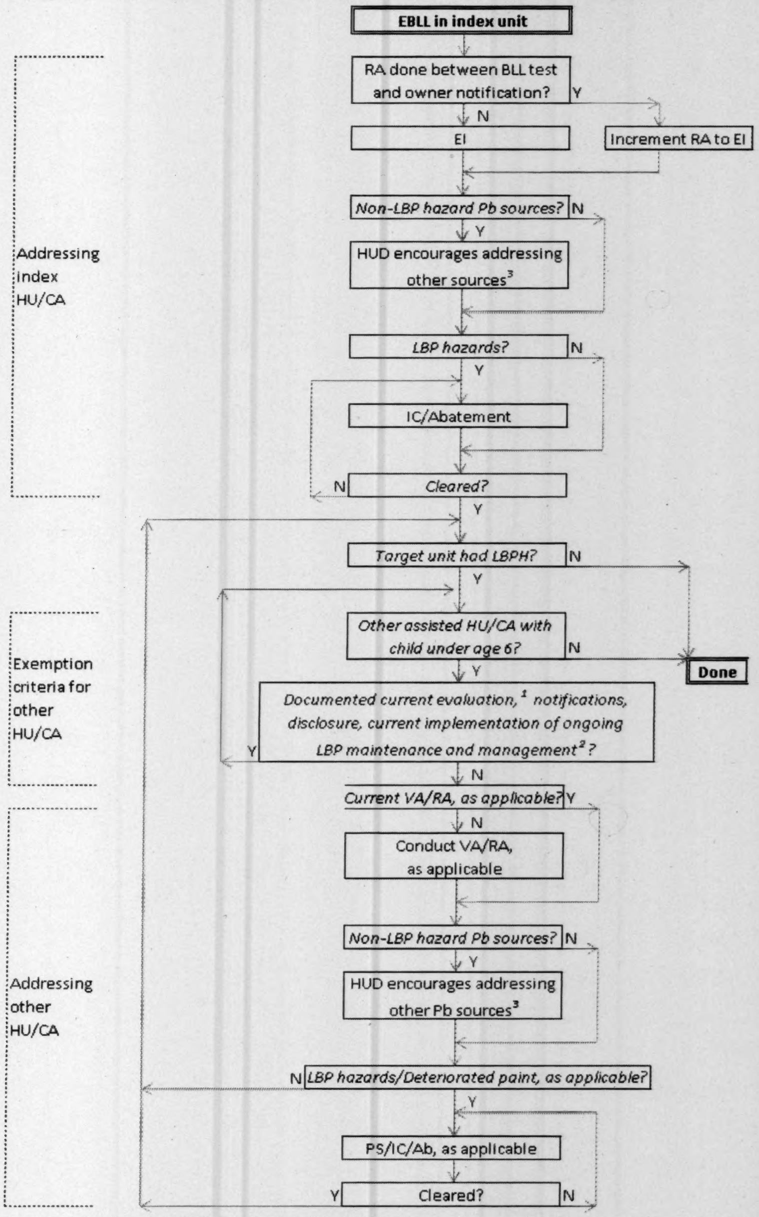
[35] *See* 24 CFR parts 100–180, especially parts 135 and 146.

[36] *See* the Office of Fair Housing and Equal Opportunity's FHEO Library at *http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/library#Guidance* for links to a set of Policy and Guidance documents. The FHEO Library also contains links to sets of documents on Decrees and Conciliation Agreements, Marketing Materials, Memorandums of Understanding (MOU), Publications, Studies, Voluntary Compliance Agreements, and Annual Reports. The Office's homepage is at *http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp.*

Fig. 1. Flowchart overview of the elevated blood lead level protocol.


EBLL in index unit
RA done between BLL test and owner notification?
Y
N
EI
Increment RA to EI
Non-LBP hazard Pb sources?
N
Y
HUD encourages addressing other sources[3]
LBP hazards?
N
Y
IC/Abatement
N
Cleared?
Y
Addressing index HU/CA
Target unit had LBPH?
N
Y
Other assisted HU/CA with child under age 6?
N
Done
Y
Documented current evaluation,[1] notifications, disclosure, current implementation of ongoing LBP maintenance and management[2]?
Y
N
Exemption criteria for other HU/CA
Current VA/RA, as applicable?
Y
N
Conduct VA/RA, as applicable
Non-LBP hazard Pb sources?
N
Y
HUD encourages addressing other Pb sources[3]
N
LBP hazards/Deteriorated paint, as applicable?
Y
PS/IC/Ab, as applicable
Y
Cleared?
N
Addressing other HU/CA

1. LBP inspection, RA, VA, reevaluation, as applicable.
2. Used certified firms/workers in maint/rehab/mod/abatement, successful clearances in past year.
3. E.g., through educational efforts in collaboration with the public health department and other resources. See the HUD *Guidelines*, Chapter 16, section IV C, Elimination or Control of Other Lead Hazards, for guidance and links to materials.
4. For VA, assess all units with children under age 6. For RA, select units with children under age 6 to assess randomly based on HUD *Guidelines*, Chapter 7, Section V.B, Selection of Housing Units, Common Areas, and Exterior Site Areas.

Ab = Abatement, BLL = blood lead level, CA = common area, EBLL = elevated blood lead level, HU = housing unit, IC = interim controls, LBP = lead-based paint , Pb = lead, PS = paint stabilization, RA = risk assessment, VA = visual assessment.

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In broad terms, HUD's proposed protocol for responding to a case of a child under age 6 with an EBLL would include the "designated party" undertaking certain actions. The designated party is the owner or other entity (*e.g.,* federal agency, public housing agency, tribally designated housing entity, sponsor, etc.) designated under the LSHR as responsible for complying with applicable requirements of the LSHR for the residential property or dwelling unit, as applicable (see § 35.110). As described below, the protocol is the same for each of the four applicable HUD subparts (H, I, L, M), and slightly narrower for the other agencies' subpart (D), for which the agencies would decide how to deal with other housing units in multi-unit properties than the unit in which the child with an EBLL resides.

The protocol would include the designated party:

- Conducting an environmental investigation [37] of the dwelling unit in which the child lived at the time the blood was last sampled (the "index" unit [38]) and of common areas servicing the index unit.[39] (The procedure for conducting the environmental investigation is described below.)
- Conducting interim control [40] of lead-based paint hazards identified in the index unit and, in the unlikely case that the work duration exceeds thresholds in the LSHR [41] (the most applicable threshold, of 5 calendar days, with the worksite contained and it and the area within 10 feet cleaned so that the family can return each day, is not expected to be exceeded), temporarily relocating the family to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards.
- Controlling other housing-related sources of lead exposure in the building, such as lead-contaminated debris.
- Being encouraged to gain the collaboration of the occupants in addressing the presence and use of sources of lead exposure that are not housing-related. Non-housing items (such as lead-containing cosmetics, pottery, folk remedies,[42] take-home exposures from the workplace, etc.) owned or used by the occupants are outside of the scope of Title X and, as a result, the LSHR.

The proposed procedure for conducting an environmental investigation, including procedures for investigating sources of lead exposure other than lead-based paint hazards, as presently found is found in Chapter 16 of the HUD *Guidelines.*[43] The protocol includes:

- Reviewing the findings of any previous lead-based paint inspection, risk assessment, environmental investigation, or reevaluation for the property.
- Conducting a comprehensive interview of the family of the child, based on the CDC EBLL environmental investigation checklist or HUD EBLL questionnaire (both are in the chapter), or a comparable questionnaire (such as one from the public health department).
- Conducting a risk assessment.[44]
- Augmenting the risk assessment, in consultation with the public health department managing the child's EBLL case, if that public health department chooses to cooperate with the designated party, to determine what, if any, other possible sources of exposure should be investigated, including, but not limited to:
  - Drinking water.
  - Glazed pottery or tableware that may contain lead glazes.
  - Work clothes or vehicle that may have been contaminated from a parent's or guardian's work place.
  - Imported cosmetics, hobbies, folk remedies, and candies. (Hobby contamination involving lead (*e.g.,* hunting, fishing, furniture refinishing, stained glass making, etc.) has been recognized as a lead exposure source in, *e.g.,* CDC guidance and EPA guidance).
- Providing to the HUD field office documentation that the designated party has conducted the activities above, within 10 business days of the deadline for each activity. In accordance with the Government Paperwork Elimination Act, which encourages electronic submission of information as a substitute for paper,[45] the designated party may submit the documentation of compliance with the LSHR regarding the affected units electronically.

The designated party or public health department may have conducted an environmental investigation of the index unit and common areas servicing it between the dates the child's blood was last sampled and the designated party received the EBLL notification. If so, the designated party would not need to conduct another environmental investigation. Similarly, if the designated party had conducted a risk assessment of the index unit and common areas servicing the unit during that period, it would not need to conduct another risk assessment, it would need to conduct only the additional elements of an environmental investigation.

A key part of the response to the case of a child with an elevated blood lead level is the environmental investigation of the unit in which the child resided, *i.e.,* the index unit. The index unit may be in a building or project with other assisted dwelling units covered by the LSHR in which children under age 6 reside or are expected to reside (see the discussion of "expected to reside" in section II.A.2). If so, the protocol would include the designated party either:

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[37] This rule proposes to defined this term as the process of determining the source of lead exposure for a child under age 6 with an elevated blood lead level, consisting of administration of a questionnaire, comprehensive environmental sampling, case management, and other measures., in accordance with chapter 16 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing ("Guidelines").

[38] Terminology adapted from the traditional epidemiology term "index case, the case that is first reported to public health authorities." CDC. Guidelines for the Control of Pertussis Outbreaks. Centers for Disease Control and Prevention: Atlanta, GA, 2000. Chapter 11, Definitions. *www.cdc.gov/pertussis/outbreaks/guide/downloads/chapter-11.pdf.*

[39] However, if the designated party conducted a risk assessment of the unit and common areas servicing the unit between the time the child's blood was last sampled and when the designated party received notification of the EBLL, the designated party need only conduct the elements of an environmental investigation not already conducted during the risk assessment. See below for the discussion of environmental investigations vs. risk assessments.

[40] Interim control refers to actions that reduce temporarily human exposure or likely exposure to lead-based paint hazards including specialized cleaning, repairs, maintenance, painting, temporary containment.

[41] 24 CFR 35.1345(a)(2).

[42] Lead has been found in some traditional (folk) medicines used by, for example, East Indian, Indian, Middle Eastern, West Asian, and Hispanic cultures. Folk medicines can contain herbs, minerals, metals, or animal products. Lead and other heavy metals are put into certain folk medicines because these metals are thought to be useful in treating some ailments. Sometimes lead accidentally gets into the folk medicine during grinding, during coloring, or from the package. See *www.cdc.gov/nceh/lead/tips/folkmedicine.htm.*

[43] Chapter 16 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing notes that, "The purpose of the [environmental] investigation is to identify lead hazards in the environment of a child. An ordinary risk assessment attempts to uncover lead-based paint hazards in a dwelling, regardless of whether a child has an EBLL. The investigator is obligated to conduct a comprehensive investigation of all sources of lead in the child's environment, not just those lead exposures directly related to the child's residence. This investigation includes studying less-common sources of lead, such as glazed pottery and folk medicines or remedies, etc., and other dwellings or areas frequented by the child. Some of these sources may be discovered by the results of the questionnaire. The investigator tests deteriorated paint on furniture identified as a potential hazard to the environmental intervention blood lead (EIBLL) child, regardless of who owns the furniture." (Paragraphs merged.)

[44] A risk assessment is (per § 35.110), an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and the provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards. As such, it is narrower in scope than an environmental investigation, as described here.

[45] 44 U.S.C. 3504(a)(1)(B)(vi).

- Providing to the HUD field office [46] documentation that the designated party has complied with required evaluation (with the type of evaluation, *i.e.,* lead-based paint inspection, risk assessment, or visual assessment for deteriorated paint, in accordance with the Rule's subpart regarding the type of assistance), notification, lead disclosure, ongoing lead-based paint maintenance, and lead-based paint management in those units; or,
- If the designated party does not provide such documentation of compliance to date, conducting a risk assessment of the non-compliant other units within the building or project covered by the LSHR and the common areas that service them, and conducting interim controls of lead-based paint hazards identified, or in the case of tenant-based rental assisted units and project-based rental assisted units receiving under $5,000 per unit per year or being single family housing, conducting visual assessment and stabilization of deteriorated paint,[47] and providing to the HUD field office documentation that the designated party has conducted the evaluation (*i.e.,* risk assessment or visual assessment, as applicable) and hazard control (*i.e.,* interim controls or paint stabilization, as applicable) within 10 business days of the deadline for the respective activities.[48]

As noted above in regard to the Government Paperwork Elimination Act, the designated party may submit the documentation of compliance with the LSHR regarding the affected units electronically.

Consistent with CDC's response to the ACCLPP recommendations, chapter 16 of the HUD *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* (HUD *Guidelines*) [49] recommends control of sources of lead exposure identified during an environmental investigation or risk assessment. These sources of lead exposure include:

- Lead-based paint hazards (*i.e.,* paint-lead hazards, dust-lead hazards, or soil-lead hazards, as defined and given quantitative measure by EPA at 40 CFR 745.63 and 745.65, respectively), which are identified by a lead risk assessment. A risk assessment is defined in the LSHR at § 35.110 (see footnote 45, above), and given operational meaning for the LSHR incorporation of EPA's Lead-Based Paint Hazards, Lead-Based Paint Activities, and State and Indian Tribal Programs rules (40 CFR part 745, parts D, E, and Q, respectively, by the LSHR at 24 CFR 35.1320, Lead-based paint inspections and risk assessments), and
- Other housing-related sources of lead exposure that are outside of the scope of lead risk assessments. The procedure for environmental investigations, as provided in chapter 16 of the Guidelines, is summarized above.

HUD notes that reevaluation is not part of the response to an EBLL. Reevaluations (or, for tenant-based rental assistance, periodic housing quality standard inspections) are already part of the regular ongoing lead-based paint management required in the subparts this proposed rule would amend, so they are not part of this amendment.

HUD's statutory authority to require controls of lead exposure sources, in contrast to recommending control of them, is limited to housing hazards under the United States Housing Act of 1937 (1937 Act) 42 U.S.C. 1437 *et seq.,* as amended [50] (*e.g.,* on public housing meeting housing quality standards [51] through lease contracts obligating public housing agencies to maintain housing projects in safe condition,[52] and on safety requirements for housing assistance programs for lower-income families [53]). In this context, the controls are limited to lead-based paint hazards, rather than lead exposures from the personal contents of the housing residents and visitors, the public water supply, ambient air levels or industrial emissions.

As seen in numerous HUD regulations from its various program offices,[54] HUD can encourage activities even if it does not require them. Accordingly, through this rulemaking, HUD encourages (in §§ 35.730(f)(3)(iv), 35.1130(f)(4), and 35.1225(f)(3)) designated parties to identify and control lead-based paint hazards in locations not covered by the LSHR (*i.e.,* unassisted housing units), and lead exposure sources other than lead-based paint hazards, even if doing so is not required by the LSHR.

As described below, across the different subparts of the LSHR, there are some differences in terminology, scoping, and exceptions, based on the specifics of the housing assistance.

1. Dwelling Unit in Which the Child Resided

HUD is proposing that, when a child under age 6 residing in target housing where the Federal government maintains a continuing financial or ownership relationship is reported to have an EBLL, the designated party must complete an environmental investigation of the index unit, and of common areas servicing the index unit, within 15 calendar days of the designated party being notified.

As noted above, several types of federal housing assistance, covered by 24 CFR part 35 subparts D, H, I, L, and M, identified above, have provisions that address lead safety in regard to children under age 6. The subparts apply when the Federal government maintains a continuing financial or ownership relationship to the target housing (vs. the short-term relationship in most rehabilitation projects, which ends when the construction work is completed, if there is no other long-term assistance relationship).

Similarly to the process under the currently codified rule, if the notification of an EBLL case is received from a person who is not a medical health care provider, the requirement to conduct an environmental investigation would be conditioned on verification of the case information, including the child's blood lead level information with the public health department or other medical health care provider. However, the threshold for such verification would be changed from EIBLL to EBLL as defined under this proposal.

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[46] See the HUD Field Office listing Web page at *http://portal.hud.gov/hudportal/HUD?src=/program_offices/field_policy_mgt/localoffices.* For Multifamily Housing assistance, designated parties may also contact the respective Regional Center, Regional Satellite Office, Hub or Program Center directly; see the Multifamily Regional Centers and Satellite Offices Web page at *http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/hsgmfbus/abouthubspcs.*

[47] Paint stabilization is "repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint." (§ 35.110)

[48] Paint stabilization is "repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint." (§ 35.110)

[49] HUD. Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing. Washington, 2014. *http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/lbp/hudguidelines.*

[50] Public Law 93–383, 88 Stat. 633, approved August 22, 1974. (The codified version can be searched on *www.fdsys.gov;* the text of the United States Code's subchapter, General Program of Assisted Housing (42 U.S.C. 1437–1437z–8) can be downloaded from *www.gpo.gov/fdsys/pkg/USCODE-2012-title42/html/USCODE-2012-title42-chap8-subchapI.htm.*).

[51] Section 6(f)(2); 42 U.S.C. 1437d(f)(2).

[52] Section 6(l)(3); 42 U.S.C. 1437d(l)(3).

[53] Section 8(c)(4); 42 U.S.C. 1437f(c)(4).

[54] *E.g.,* 24 CFR 8.28(a)(2), 50.3(a), 51.101(a)(5), 51.106(a)(4), 91.105(a)(2)(i)(ii)(iii), 200.857(g)(4), 570.466, 902.75(f), 964.15, and 984.201(d)(5), etc.

Under the currently codified rule, the blood lead threshold for conducting the environmental investigation is fixed. Under this proposed rule, the threshold for the EBLL would change when CDC updates its guidance for a childhood blood lead level such that an environmental intervention should be conducted. As of 2012, this was the reference range level for children under age 6 (*i.e.,* the blood lead level at or above which the top 2.5th percentile of U.S. children's blood lead levels are to be found, per CDC's NHANES). CDC announced that it plans to update the reference range value every 4 years (CDC response to ACCLPP Recommendation II).[55] Thus, CDC's recommendation on a childhood blood lead level for recommending an environmental intervention would be updated at least that often.

If the proposed rule is adopted, after CDC publishes an update to the EBL guidance, HUD would issue a notice on the applicability of that updated threshold to the LSHR going forward after a preparatory transition period. HUD's notice would, in order to provide regulatory and programmatic clarity, and to avoid unnecessary retroactive program changes, specify that the change would be prospective, not retroactive. Thus, the status of housing of children with blood lead levels based on measurements taken before the transition period ends that are in the range between the earlier and newer reference range values would not be affected by the change. (For example, if the earlier reference range value was 5.0 µg/dL, and a 4-year old child's blood lead level measured before the end of the transition period were 3.7 µg/dL, the child's dwelling unit would not need to be subject to an environmental investigation, even if the updated EBL value published after the child's blood were tested is 3.7 µg/dL or less. If the child continues to reside in federally-owned or -assisted housing covered by the environmental intervention requirement, and the child's blood, as retested after the transition period has ended is at or above the updated EBL value (in this example, at or above 3.7 µg/dL), the environmental intervention would then be required.)

Similarly, the blood lead level that would prompt notification to the public health department would be an EBLL rather than an EIBLL.

In order that HUD be able to promptly monitor implementation of the evaluation and hazard control procedures when an EBLL case has occurred in HUD-assisted or HUD-owned target housing, HUD is proposing that the designated party notify within 5 business days of being notified of the EBLL case by a public health department or any other medical health care professional both the HUD field office (as the currently codified rule requires for public housing, under § 35.1130(e)) and HUD's OLHCHH, which has been delegated authority for oversight of the Lead Safe Housing Rule.[56] The OLHCHH, which is functioning as a public health authority as defined by the Privacy Rule (45 CFR parts 160 and 164) promulgated under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104–191, 110 Stat. 1936, approved August 21, 1996, as amended),[57] is developing an electronic portal for submitting the case information, in order to minimize the reporting burden on designated parties, and will announce the availability of the portal and instructions for its use in a **Federal Register** notice. If, and so long as there is sufficient demand for notifications to be sent by mail or fax, the OLHCHH will make those submittal pathways available. Should it determine that there is insufficient demand; the OLHCHH will post a **Federal Register** notice to that effect.

The 15-day period for conducting environmental investigation would be the same period as the current LSHR requires in EIBLL cases.

If the investigation identified lead-based paint hazards in these areas, the designated party (or the owner, as applicable) would be required to conduct interim controls of the hazards within 30 calendar days of receiving the report of the investigation, as in the current rule.

Similarly, as part of this rulemaking, HUD encourages the designated party to address sources of lead exposure other than lead-based paint hazards. If those sources are housing-related, *e.g.,* airborne emissions from housing activities conducted by the designated party (or the owner, as applicable), such as uncontrolled emissions from welding or soldering operations in the property's machine shop, the designated party (or the owner, as applicable) is encouraged by HUD to address the hazards. The public health department may issue an abatement order in regard to those sources; compliance with such an order is a requirement of state, tribal or local law, as applicable. Some or all of the sources of lead exposure may be outside of the scope of Title X and the LSHR because they are not housing-related sources. For example, the sources may be non-housing items, such as lead-containing cosmetics, pottery, folk remedies, etc. owned or used by the occupants that produce exposures, lead contamination on clothing or skin and in vehicles from the workplace, out-of-home hobbies, or in-home hobbies. Chapter 16 of the HUD *Guidelines* includes a set of links to the CDC lead Web page on such sources.[58] That chapter also refers to the CDC lead Web page on at-risk populations (including children who are poor, are members of racial-ethnic minority groups, are recent immigrants, live in older, poorly maintained rental properties, or have parents who are exposed to lead at work; pregnant women; refugee children; and internationally adopted children),[59] which is of particular interest when no probable source of lead may be identified. Both of those Web pages have further links to Web pages on specific topics.

Regarding these sources, HUD encourages the designated party to gain the cooperation of the occupants in addressing the presence and use of non-housing-related sources of lead exposures. Similarly, some of these sources may be ambient, such as hazardous waste facility siting, or industrial emissions, regarding which, by this rulemaking, HUD is indicating that it is important that the designated party inform or even engage with local, state, and/or federal public health and/or environmental officials in addressing the problem.

Hazard reduction would be considered complete when either:

- Clearance of the unit and common areas servicing the unit is achieved and the clearance report from the risk assessor states that the control measures have been completed; or
- The public health department certifies that the lead-based paint hazard reduction and the control of other

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[55] HUD recognizes that, if the EBLL threshold continues to decrease over time, the measurement variability (sampling and analytical variability) will represent a larger fraction of the threshold value. It would therefore, be likely that, at some point, the percentile approach of the reference range value might not be correlated as tightly with determinable lead exposure sources, *i.e.,* a smaller fraction of cases may be attributable to lead-based paint hazards. The environmental investigation will make that determination in individual cases. Should a statistically significant substantial trend toward low fractions of EBLL cases being attributable to lead-based paint hazards be identified, HUD would consider further LSHR rulemaking based on the evidence available at that future point.

[56] HUD. Delegation of Authority for the Office of Healthy Homes and Lead Hazard Control. 76 FR 45592. July 29, 2011. *https://federalregister.gov/a/2011-19279.*

[57] HUD–CDC memorandum, March 9, 2004. *www.hud.gov/offices/lead.*

[58] *www.cdc.gov/nceh/lead/tips/sources.htm.*

[59] *www.cdc.gov/nceh/lead/tips/populations.htm.*

housing-related lead hazards are complete.

The designated party may have, between the date the child's blood was last sampled and when the designated party received the notification, conducted hazard reduction of the unit and common areas servicing the unit as described above, including passing clearance. If so, it need not redo the hazard reduction.

2. Other Assisted Dwelling Units in the Building or Project

ACCLPP's recommendation XI was that, "If lead hazards trigger a response in any unit in a multi-family housing project, the same response action should be applied to all similar untested units in the housing project, unless a risk assessment demonstrates that no lead hazards are present in the other units."

HUD is proposing that if, (a) the dwelling unit in which the child under age 6 resided when she or he was reported as having an EBLL, *i.e.,* the index unit, is part of a residential property or project that has other units of housing covered by the LSHR, and (b) the index unit has been confirmed to have lead-based paint hazards, then the occupancy and lead management of other units covered by the LSHR with a child under age 6 residing or expected to reside would be examined to determine whether the designated party must conduct a risk assessment or visual assessment (as described in the bulleted paragraphs above). If so, and if lead-based paint hazards (or deteriorated paint) are found in those other units, then interim controls or paint stabilization,[60] as applicable must be conducted, and clearance passed. On the other hand, if the index unit has been found not to have lead-based paint hazards, HUD is proposing that no risk assessment or visual assessment, as applicable, be required in other assisted units in the building or project. This approach is based on the predicate in the CDC response to ACCLPP recommendation XI, namely, that a response in other units is based on having "lead hazards trigger a response in any unit in a multi-family housing complex." If the index unit does not have lead-based paint hazards, the CDC guidance does not recommend actions in other units.

If index unit has any lead-based paint hazards, HUD is proposing that the types of action required depend on whether a child under age 6 resides or is expected to reside in one or more other assisted units in the building or project, and the documented degree of compliance with the LSHR by the designated party in regard to the residential property, as reviewed by HUD if the designated party wishes to use its performance record as demonstrating that no lead-based paint hazards are likely to be present in other units. This prioritization is intended to focus limited federal resources on the situations of the highest risk to children under age 6 in other assisted units in the building or project where exposure to lead hazards may have occurred. HUD has, of course, no jurisdiction under sections 1012 or 1013 of Title X over unassisted units, but it encourages the use of the protocol below in unassisted units, even if it cannot require its application to those units. Similarly, regarding lead safety in situations not covered by the Rule, HUD encourages housing owners (occupant owners and landlords), housing maintenance, management, and renovation firms, and others to be aware of its hazards, and to work safely with lead-containing building materials, for the protection of the health of occupants, visitors and workers, and their families.

In general, when the index unit has been found to have lead-based paint hazards, and a child under age 6 resides or is expected to reside in one or more other assisted units in the building or project, HUD is proposing certain actions be undertaken, based on the type of assistance. Specifically, the designated party would be required to (with exceptions as noted below):

- Conduct a risk assessment of those other units in public housing, project-based rental assisted multifamily properties receiving $5,000 or more per unit per year in HUD assistance, or HUD-owned and mortgagee-in-possession multifamily properties with unit selection as described in the statistically valid random sampling protocol in Chapter 7, Section V, Inspections in Multi-family Housing, of the HUD Guidelines (as discussed below), or sample all of those other units.
- Conduct a visual assessment for deteriorated paint in those other units in tenant-based rental assisted units, project-based rental assisted properties receiving under $5,000 per unit per year in HUD assistance, or project-based rental assisted single family housing in the same project receiving HUD assistance. Again, when there are a sufficient number of those other units, the random sampling protocol in Chapter 7, Section V, of the HUD Guidelines may be used (as discussed below) for unit selection.

The occupancy of the other assisted units in the building or project would be examined to determine in which of them, if any, children under age 6 resided or were expected to reside as of the date when, regarding the index unit and common areas servicing that unit:

- If lead-based paint hazards were identified, the date the lead hazard control work passed clearance, that is, the unit (and/or common area) where the work was done is completed, and the residents can move into their unit (and/or pass through the common area) based on a successful visual inspection for completion of the work and cleanliness is passed and, for work that would disturb painted surfaces that total more than a small ("de minimis") amount (defined for the LSHR in 24 CFR 35.1350(d)), passing a residual dust-lead level test; or
- If no lead-based paint hazards were identified, the date the environmental investigation in regard to the child in the index unit was completed.

The "expected to reside" wording is used because it is in the statutory and regulatory definitions of target housing as the exception to the exemption of housing for persons with disabilities or the elderly from target housing. Thus, housing for persons with disabilities or the elderly in which a child under age 6 resides or is expected to reside is covered by the scope of the LSHR.[61] As detailed in the definition section (§ 35.110) of the LSHR, as proposed to be amended by this rule:

"*Expected to reside* means there is actual knowledge that a child will reside in a dwelling unit reserved or designated exclusively for the elderly or reserved or designated exclusively for persons with disabilities. If a resident woman is known to be pregnant, there is actual knowledge that a child will reside in the dwelling unit."

It is important to note that a "dwelling unit reserved for the elderly," or a "dwelling unit . . . designated exclusively for persons with disabilities" differs from a unit's happening to be occupied by the elderly or by persons with disabilities. A child may be "expected to reside" in family housing (*i.e.,* housing available for general occupancy, meaning that there are no restrictions on the types of people who may occupy the unit, or, in other words, the unit is available for occupancy in general to all individuals and families and is not designated or reserved for any particular category) even if there is no child living there at a particular time or even if an elderly family or a family with one or more persons with disabilities are the occupants.

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[60] Paint stabilization refers to repairing any physical defect in a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.

[61] 42 U.S.C. 4822(e)(1), 4851b(27); 24 CFR 35.110, 35.115.

When the designated party has this actual knowledge about another assisted unit in the building or project, that unit would be included among those that are assessed (unless the designated party had documented to HUD's satisfaction, compliance with the LSHR demonstrating that no lead-based paint hazards were likely to be present in other units) and, if lead-based paint hazards or deteriorated paint (as applicable) are identified, treated.

The date clearance has passed is used in establishing the deadline for conducting the evaluation of the other units and the control of hazards identified, so that the designated party will focus its initial efforts on the index unit and its associated common areas, in order to expedite evaluating and, if necessary, controlling lead-based paint hazards there.

If a family with a child under age 6 moves in to a unit formerly designated as one in which no children under age 6 were residing or expected to reside, a risk assessment or visual assessment (as applicable, based on the type of assistance) must be conducted in accordance with the current rule. If lead-based paint hazards or deteriorated paint (as applicable) are found, then, under the current rule, lead hazard control will be conducted to protect the child's health.

If the index unit has been found to have lead-based paint hazards, it is possible that the designated party may not have met the proposed certain performance requirements under the LSHR. Specifically, under the LSHR, the designated party is responsible for conducting and documenting current evaluation, notifications, and disclosure, and, depending on the type of assistance, may be responsible for conducting and documenting ongoing lead-based paint maintenance and management (see Sections II.A.3 and 4, respectively, below).

If the designated party has not met the applicable performance requirements above, and a child under age 6 with an EBLL resides in a unit covered by the LSHR that has lead-based paint hazards, HUD is proposing that the designated party conduct a risk assessment (or visual assessment, as applicable) in other dwelling units covered by the LSHR in which children under age 6 reside or are expected to reside, and the common areas servicing those units. If lead-based paint hazards or deteriorated paint, as applicable, are found in those other units, then interim controls or paint stabilization, as applicable must be conducted, and clearance passed.

If the designated party has met the applicable performance requirements above, and a child under age 6 with an EBLL resides in a unit covered by the LSHR, the designated party is encouraged by HUD to conduct a risk assessment (or visual assessment, as applicable) in other dwelling units covered by the LSHR, although it would not be required to do so. When the set of units with children under age 6 has been identified, if a risk assessment is to be conducted, the designated party (in typical practice, through its risk assessment staff or contractor) would select either all of these units (and the common areas that service them) to assess, or, if the number of units is large enough (over 20, in pre-1960 housing, and over 10 in 1960–1977 housing), a random sample of units (and of the common areas that service them) in accordance with the HUD *Guidelines,* Chapter 7, Section V.B, Selection of Housing Units, Common Areas, and Exterior Site Areas. Random sampling for risk assessments is appropriate in the context of an elevated blood lead level response because it provides "a statistically significant degree of confidence about the existence of lead-based paint hazards," in multifamily housing, and "avoids questions about the quality of the criteria used for targeting or worst case sample selection," according to the HUD *Guidelines,* Chapter 5, Section III.B.1, Targeted, Worst Case, and Random Sampling. This level of programmatic confidence is particularly important in addressing housing in which a child has an EBLL.

When the set of units with children under age 6 has been identified, if visual assessment is to be conducted, the designated party (in typical practice, through its risk assessment staff or contractor) would select all of these units (and the common areas that service them) to assess. The visual assessment procedure is much faster than the risk assessment procedure, with the trade-off that it provides less information. Accordingly, conducting a random sample of units and of common areas is not appropriate in this context of a child under age 6 with an EBLL in the building or project.

However, as under the current LSHR, if the designated party were to choose not to evaluate the other units covered by the LSHR for lead-based paint hazards (or deteriorated paint, as applicable), the designated party would have to presume that lead-based paint hazards are present in these other units and common areas. This is allowable because the current LSHR provides, in §§ 35.120(a) and (b), for risk assessments not to be conducted if "the designated party . . . presume[s] that lead-based paint or lead-based paint hazards or both are present throughout the residential property," and use standard treatments on the painted building components and horizontal surfaces, and HUD is continuing to allow the designated party to use this option. A designated party may, for example, have staff or contracts in place to control presumed lead-based paint hazards, if it does not wish to delay undertaking the control activities.

For target housing units receiving tenant-based rental assistance in which children under age 6 reside (which are covered by LSHR subpart M), the legislative history of Title X, as described in the preamble to the LSHR (64 FR 50139, *at* 50146), supports that, "Congress did not intend for HUD to apply the new minimum procedures set out in section 1012(a) of Title X," in particular, risk assessments. However, HUD does not accept the assumption that "Congress intended to abolish HUD's [then] current procedures" for lead safety evaluation, and those procedures serve as LSHR's basis for requiring a visual assessment for deteriorated paint in this housing. Accordingly, HUD is continuing to allow the approach of using a visual assessment for this housing in the context of assessing units and common areas other than the index unit and common areas servicing the index unit.

HUD is proposing that if a risk assessment or a visual assessment (as applicable) finds lead-based paint hazards or deteriorated paint (as applicable), or if these hazards or deterioration are presumed to exist in the other dwelling units with children under age 6 residing or expected to reside and the common areas servicing those units, then the approach to controlling them should be the same as for the index unit and common areas servicing the index unit. For all subparts covered by this rulemaking the control approach would be interim controls, except for subpart M on tenant-based rental assistance, and a portion of subpart H on project-based rental assistance (to units receiving under $5,000 per unit per year or being single family housing) for which the approach is paint stabilization. For both, interim controls and paint stabilization, the control measure would be followed by clearance if the amount of deteriorated paint is above the LSHR's *de minimis* threshold.[62]

As in the current rule, the designated party would be required to implement lead hazard control measures promptly, with the period specified in the applicable subpart of the rule. In housing covered by the LSHR, for index units, the period for interim controls would be 30 calendar days of receiving the report of the investigation. For other units covered by the LSHR with children under age 6 residing or expected to reside, the period would be 30 calendar days for paint stabilization (as in the current rule at §§ 35.720(a)(2) and 35.1215(b)), and a schedule based on the main threshold for multifamily unit sampling in the HUD Guidelines' chapter 7 as a means of characterizing a large hazard control project:[63] Within 30 calendar days, or within 90 calendar days if more than 20 units each require lead hazard control work that would disturb painted surfaces that total more than the *de minimis* threshold of § 35.1350, Safe work practices, paragraph (d), De minimis levels,[64] and, therefore, would require the work to be done using lead safe work practices and certified renovation or abatement firms.[65] Basing the schedule on the amount of hazard control work to be done recognizes resource availability limitations when large numbers of units require work. HUD encourages owners to conduct hazard control work expeditiously, especially if there are few other units in which work is to be done.

See the description of the evaluation and lead-based paint hazard control approach in Section II.A.1, above, along with the approach to addressing sources of lead exposure other than lead-based paint hazards.

3. Documentation of Current Evaluation, Notifications, Disclosure

The LSHR requires, in the applicable subparts of title 24 CFR part 35, that evaluations be conducted for lead-based paint, deteriorated paint, and/or lead-based paint hazards, *i.e.*, paint-lead, dust-lead and soil-lead hazards, as applicable to the subpart, and that occupants be notified of the results of evaluations and hazard reduction activities.

This proposed rule would retain the requirement of notification of evaluations and hazard reduction activities in accordance with § 35.125, Notice of evaluation and hazard reduction activities, of the LSHR. That section requires notification within 15 calendar days of when the designated party receives the evaluation report or the hazard reduction activities have been completed, to each occupied dwelling unit affected by the evaluation, presumption, or hazard reduction activity or serviced by common areas in which it took place.

The implementing provisions in other parts of title 24 CFR incorporate part 35 by reference, including both the LSHR, in subparts B–R, and the Lead Disclosure Rule, in subpart A. Disclosure is required in addition to notification. Note that any lead-based paint hazards identified by a risk assessment or environmental investigation, and the results of any lead hazard control work, must, under the Lead Disclosure Rule, be disclosed to prospective tenants and buyers, and to current tenants before lease renewal. See HUD's Lead Disclosure Rule Web site at *www.hud.gov/lead.* Note also that HUD's Lead Disclosure Rule is substantively identical to EPA's Lead Disclosure Rule at 40 CFR part 745 subpart F; see EPA's Real Estate Disclosure Web site at *http://www2.epa.gov/lead/real-estate-disclosure/.*

HUD is proposing that, if the designated party has not complied with these requirements in the 12 months ending on the date the owner received the environmental investigation report, or if it has not provided the HUD field office documentation demonstrating compliance, the designated party must conduct the evaluation and, if applicable, hazard reduction requirements in the other assisted dwelling units with children under age 6 and common areas serving them, as described in Section II.A.2, above. Note that, under rules pertaining to the type of assistance, HUD may consider taking remedial action under the assistance contract or agreement as a result of the noncompliance.

4. Documentation of Ongoing Lead-Based Paint Maintenance and Management

Implementation of ongoing lead-based paint management and maintenance is important in ensuring that, between evaluations, lead-based paint is maintained properly (such as during day-to-day occupancy and, in particular, renovation, repair and painting (RRP) work) and managed properly (such as during rehabilitation and modernization activities) so that lead-based paint hazards are unlikely to occur. Each of the five LSHR subparts covering HUD-assisted housing for which the current rule has an EIBLL requirement also requires ongoing lead-based paint maintenance. Similarly, when rehabilitation, under subpart J, Rehabilitation, is conducted in such housing, appropriate lead hazard control is required, as is the use of properly certified firms and workers in these activities. Specifically, the LSHR requires compliance with Federal laws and authorities for all lead-based paint activities (24 CFR 35.145). This includes the Environmental Protection Agency's lead-based paint regulations at 40 CFR part 745, such as its RRP Rule.[66]

The designated party may have complied with the evaluation, notification and disclosure requirements described in Section II.A.3, above, but not properly maintained and managed lead-based paint, lead in dust, and lead in soil, or not documented compliance. (Proper management in this context includes using lead-certified firms and workers in maintenance and management activities, and achieving successful clearances for such activities conducted in accordance with the LSHR throughout the 12 months ending on the date the owner received the environmental investigation report.) In such a case of inadequate or absent documentation, or the designated party's not having provided the documentation to the HUD field office, HUD is proposing that the designated party must conduct the evaluation and, if applicable, hazard reduction requirements in the other dwelling units with children under age 6 and common areas serving them, as described in Section II.A.3, above.

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[62] HUD. Lead Safe Housing Rule. 24 CFR 35.1350(d). The de minimis threshold is either: (1) 20 square feet (2 square meters) on exterior surfaces; 2 square feet (0.2 square meters) in any one interior room or space; or 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include window sills, baseboards, and trim.

[63] Formally, the number of units for which random sampling provides 95 percent confidence that fewer than 5 percent of units (or 50 units, for projects of over 1000 units) have lead-based paint, for lead-based paint inspections, or lead-based paint hazards, for risk assessments. For up to 20 units, all units are sampled; for larger numbers of units, only a fraction need be sampled. (For routine inspections and risk assessments, this criterion is applied to pre-1960 housing, but that year-of-construction distinction need not be made in this case, because of the essential difference that the index unit is known to have lead-based paint hazards.) See the *Guidelines,* chapter 7, section V.B.

[64] "Safe work practices are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total more than: (1) 20 square feet (2 square meters) on exterior surfaces; (2) 2 square feet (0.2 square meters) in any one interior room or space; or (3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include window sills, baseboards, and trim." (Reformatted here.)

[65] The landlord may be a certified firm. For example, EPA's Renovation, Repair and Painting Program: Property Managers page (*www.epa.gov/lead/renovation-repair-and-painting-program-property-managers*) has the following questions and answers (reformatted here): "How can property managers comply with the RRP rule? Do you or your employees conduct renovation, repair, or painting activities in a pre-1978 residential building? If yes, then you must become a Lead-Safe Certified Firm. If no, then hire only a Lead-Safe Certified firm for building maintenance, repair, or painting activities that could disturb lead-based paint."

[66] See, especially, 40 CFR part 745 subpart E, on certified RRP work practices, and renovation firm and renovator certifications; subpart L, including conducting certified lead-based paint inspection, risk assessment and abatement activities, including clearance examinations when required; and subpart Q, on State and Indian Tribal certification programs that complement EPA's certification programs in other parts of the Nation in which EPA implements the certification program.)

B. Effective Date

HUD is proposing a delayed effective date for these regulations that would be one or more months after the date of publication of the final rule in the **Federal Register**. In determining an appropriate delayed effective date, HUD considered three options: 1 month, 6 months, and 12 months after publication of the final rule.

The argument in favor of a 1 month delayed effective date is based on Title X (sections 1012 and 1013) requiring the evaluation and reduction of lead-based paint hazards in housing receiving Federal assistance and residential property owned by the Federal government. Under one line of argumentation, any delay beyond the mandatory 30 day delayed effective date (42 U.S.C. 3535(o)(3)) in implementing requirements based on the guidance of the federal public health agency would pose an undue risk to the health of children. The argument for a longer delayed effective date is that program administrators at all levels of government, as well as property owners and contractors performing lead-based paint activities, would not have adequate education and training time to implement the new criterion and the associated requirements and procedures required under the proposed regulation.

Further, the Department recognizes that HUD clients conducting ongoing program activities will need time to incorporate the revised requirements for responding to cases of children with elevated blood lead levels into their programs. As a result, HUD is proposing to delay the effective date of the final rule for 6 months after publication of the final rule as a way to allow all parties—lead-based paint professionals, housing agencies, state and local government agencies, and private property owners—time to prepare for proper implementation of the revised requirements. The Department shares the concern of the public health community that delays in implementing these requirements may have young children with EBLLs living in certain HUD-assisted housing where no environmental intervention has taken place spend a longer amount of time in that housing than the time it takes to control the lead-based hazard. At the same time, however, it would be impractical for HUD to establish a 30 day delayed effective date knowing that the organizational infrastructure necessary to carry it out would not be fully in place.

Because most of the LSHR went into effect 12 months after its publication,[67] and this rulemaking would affect only a small fraction of the housing covered by the whole LSHR, HUD is proposing that this rulemaking go into effect sooner than 12 months. More specifically, HUD believes that a 6 month delayed effective date is sufficient for designated parties to be informed of the rule's becoming final and to prepare for taking action if a child residing in the assisted units has an EIBLL. Most designated parties would not need to take any action in response to this proposed rule, if adopted, because they will not have any children under age 6 in programs covered by this rulemaking who have EBLLs, and those that will need to take action will do so on an occurrence basis, rather than in the anticipation of a likely EBLL.

HUD welcomes comments on the length of the proposed delayed effective date for this rule.

C. Subparts

1. *Subpart B—General Lead-Based Paint Requirements and Definitions for All Programs.* This subpart sets out general requirements for federally owned residential property and housing receiving Federal assistance.

a. *Definitions.* HUD is proposing to add two new terms, delete one term, and revise two terms, in § 35.110, Definitions:

Elevated blood lead level. In this rule, HUD proposes to replace the EIBLL threshold with the EBLL threshold that is the blood lead level in children under 6 years of age for which CDC guidance says that an environmental intervention should be conducted. The EBLL will be used for determining when environmental interventions are to be taken under the LSHR.

As discussed in Section I, above, in 2013, CDC revised its guidance to provide an operational definition of EBLL based on data from NHANES, and committed to update that definition every four years. Accordingly, HUD is proposing to add a definition of EBLL so that the term can be used in the program subparts instead of writing out the full wording of the definition in each applicable section.

Specifically, elevated blood lead level means a confirmed concentration of lead in whole blood of a child under age 6 equal to or greater than the concentration in guidance published by the Department of Health and Human Services for recommending that an environmental intervention be conducted.

The entity mentioned in the definition is the Department of Health and Human Services, rather than CDC, in order to accommodate the possibility that that Department could choose to have another organizational unit than CDC announce the updated EBL value, without HUD having to amend this Rule to reflect that updated value.

HUD is proposing to add a definition that elevated blood lead level means a confirmed concentration of lead in whole blood of a child under age 6 equal to or greater than the concentration in the most recent guidance published by the Department of Health and Human Services on recommending that an environmental intervention be conducted.

ii. *Environmental intervention blood lead level.* For the reasons discussed above in regard to adding the definition of elevated blood lead level, the term environmental intervention blood lead level is no longer needed in the program subparts of the LSHR, so HUD is proposing to delete the definition of environmental intervention blood lead level. This proposed rule replaces the term environmental intervention blood lead level with the term elevated blood level throughout the LSHR.

iii. *Environmental investigation.* For purposes of clarity, brevity, and consistency with CDC's response to ACCLPP, the term environmental investigation is defined in this proposed regulation the way it is defined in the HUD *Guidelines.* Specifically, an environmental investigation would be defined to mean the process of determining the source of lead exposure for a child under age 6 with an elevated blood lead level, consisting of administration of a questionnaire, comprehensive environmental sampling, case management, and other measures, in accordance with chapter 16 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing ("Guidelines"). With HUD proposing that an environmental investigation in response to EBLL cases be included in the program subparts of the LSHR, HUD proposes to define the term rather than having to write out its substance in each applicable section. Accordingly, HUD is proposing to add a definition that environmental investigation means the process of determining the source of lead exposure for a child under age 6 with an elevated blood lead level, consisting of administration of a questionnaire, comprehensive environmental sampling, case management, and other measures, as all of these elements are conducted in accordance with chapter 16 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing ("Guidelines"). See preamble Section II.A.1, above, for a summary of the environmental investigation protocol.

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[67] HUD Lead Safe Housing Rule. 24 CFR 35.105 Effective dates.

iv. *Evaluation.* In the current LSHR, an evaluation is a risk assessment, a lead hazard screen, a lead-based paint inspection, paint testing, or a combination of these to determine the presence of lead-based paint hazards or lead-based paint. This proposed rule would add the term environmental investigation, as discussed above, to the list of activities that are evaluations. As a result, in accordance with the LSHR, § 35.125(a), Notice of evaluation or presumption, when an environmental investigation is conducted in a housing unit or common area servicing the units, the tenants will be notified of the results. However, a prohibition against posting a notice of environmental investigation in centrally located common areas is added to § 35.125(d) for the protection of the privacy of the child and the child's family or guardians, in accordance with the Health Insurance Portability and Accountability Act (HIPAA).[68]

v. *Expected to reside.* For purposes of clarity, the phrases "reserved for" and "designated exclusively for" in the current LSHR are being unified into the single term "reserved or designated exclusively for." Specifically, "reserved for the elderly" in regard to whether pre-1978 housing is target housing is being revised to "reserved or designated exclusively for the elderly," and "designated exclusively for persons with disabilities" is being revised to "reserved or designated exclusively for persons with disabilities." Certain housing laws and HUD regulations use one or the other phrase.[69] Using a unified term eliminates possible confusion about the applicability of the exemption based on the statutory or regulatory history of the type of assistance to a property, allowing HUD and designated parties to focus on the current status of the assistance.

2. *Subpart D—Project-Based Assistance Provided by a Federal Agency Other Than HUD.* This subpart sets out minimum requirements, consistent with section 1012 of Title X, for Federal agencies other than HUD that have housing programs that provide more than $5,000 of project-based assistance per unit per year to a target housing property.

This subpart currently requires specific actions in response to a child with an environmental intervention blood lead level in § 35.325. In addition to revising this section to refer to an elevated blood lead level, HUD proposes that the change in evaluation method be updated to reflect the change from risk assessment to environmental investigation.

HUD is proposing that children under age 6 in this housing be covered when they live in other units in the building or project. Specifically, if the environmental investigation of the index unit identifies any lead-based paint hazards, the owner would generally, as described below, conduct a risk assessment for other assisted dwelling units in which a child under age 6 resides or is expected to reside on the date interim controls are complete, and for the common areas serving those units. Risk assessments would be conducted within 30 calendar days after receipt of the environmental investigation report on the index unit if there are 20 or fewer such units, or 60 calendar days for risk assessments if there are more than 20 such units. If the risk assessment were to identify lead-based paint hazards, the owner would have to control the hazards in those units and common areas. The control work would have to be done within 30 calendar days, or within 90 calendar days if more than 20 units have lead-based paint hazards such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d), as discussed in Section I.A.2, above. These requirements for other units would not apply if either the owner conducted a risk assessment and conducted interim controls of identified lead-based paint hazards between the date the child's blood was last sampled and the date the owner received the notification of the elevated blood lead level; or if the owner has documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance, and lead-based paint management requirements under this part throughout the 12 months preceding the date the owner received the environmental investigation report, Federal agencies other than HUD would be responsible for updating their policies under this subpart and implementing them.

3. *Subpart H—Project-Based Assistance.* This subpart establishes procedures to eliminate as far as practicable lead-based paint hazards in residential properties receiving project-based assistance under a HUD program.

This subpart covers several categories of project-based assistance programs. Section 35.715 covers project-based assistance to multifamily properties receiving more than $5,000 per unit per year, and includes a paragraph (d) on properties that have not yet had a risk assessment conducted in accordance with paragraph (a). Section 35.720 covers multifamily properties receiving up to $5,000 per unit per year, and single family properties. Both sections incorporate the same § 35.730, about a child with an environmental intervention blood lead level, by reference. HUD is proposing that § 35.730, be revised to reflect the protocol for addressing elevated blood level cases as described above.

Regarding other dwelling units in the property covered by this subpart other than the index unit, HUD is proposing that, if the environmental investigation report on the index unit identifies lead-based paint hazards, then, for units in which a child under age 6 resides:

- Evaluation (risk assessment (per § 35.715(a)) or visual assessment (per § 35.720(a)(1)), as applicable) would be conducted within 30 calendar days after receipt of the environmental investigation report on the index unit for visual assessments, 30 calendar days for risk assessments if there are 20 or fewer such units, or 60 calendar days for risk assessments if there are more than 20 such units. These periods provide promptness while recognizing that more than one unit may have to be assessed, and the limited availability of certified risk assessors in some jurisdictions, so that the 15-day period used in § 35.730(a) for conducting an evaluation on that one, index, unit may not be sufficient for the owner to arrange for identifying other units where a child under 6 resides or is expected to reside, and having the evaluation of those other units conducted. HUD encourages owners to conduct these evaluations expeditiously, especially if there are a small number of other units to be evaluated.

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[68] *See* the HIPAA in regard to privacy of children and their families regarding individually identifiable health information. See, especially HIPAA § 1171, creating 42 U.S.C. 1320d–6, Wrongful disclosure of individually identifiable health information, with the definition of the term created at 42 U.S.C. 1320d(6).

[69] *See, e.g.,* 42 U.S.C. 1437e, Designated housing for elderly and disabled families, 24 CFR 880.612a(d)(1), which mentions vacant units "reserved for elderly families;" and 24 CFR 945.105, in which "Mixed population project means a public housing project reserved for elderly families and disabled families."

- Hazard control work be completed in these other units on a schedule described above: within 30 calendar days, or within 90 calendar days if more than 20 units have lead-based paint hazards such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d). HUD encourages owners to conduct hazard control work expeditiously, especially if there are few other units in which work is to be done.

As noted above, to enable prompt HUD monitoring of implementation of the evaluation and hazard control procedures under this subpart when an EBLL case has occurred, HUD is proposing that the designated party notify the HUD field office and HUD's OLHCHH within 5 business days of being so notified by the public health department or medical health care professional.

It should be noted that CDC used the terms "multi-family housing" and "housing complex" in its Response to ACCLPP recommendation XI to refer to a group of buildings, apartments, etc., that are located near each other and used for a particular purpose, as "complex" is commonly defined in the building context. HUD regulations and program documents use several terms to refer to such a similar group of residential buildings, including "complex," "buildings," "apartments," and "project." For the sake of uniformity, and to provide clarity for HUD stakeholders, the HUD synonym "project" is used in this and other subparts of the LSHR outside of quotations from CDC that use "complex."

HUD proposes to make a technical correction to § 35.715, to redesignate paragraph (d)(4), on blood lead level response, which requires the response until a risk assessment of a property is conducted, but does not require a blood lead level response after the risk assessment is done, as paragraph (e). The current paragraph numbering inadvertently makes the requirement for the higher level of assistance in this section less stringent than the requirement for the lower level of assistance covered by § 35.720. As a result of correcting this inconsistency, the redesignation would have the requirement apply to multifamily properties receiving more than $5,000 per unit, whether before or after the risk assessment has been conducted.

4. *Subpart I—HUD-Owned and Mortgagee-in-Possession Multifamily Property.* The purpose of this subpart is to establish procedures to eliminate, as far as practicable, lead-based paint hazards in a HUD-owned multifamily residential property or a multifamily residential property for which HUD is identified as mortgagee-in-possession.

This subpart currently requires specific actions in response to a child with an environmental intervention blood lead level in § 35.830; the requirements are generally the same with respect to risk assessment, verification, hazard reduction, and reporting requirement as those for housing receiving project-based rental assistance in § 35.730, discussed in Section II.C.3. The difference is that, because HUD is the owner of these properties covered by § 35.830, the term "HUD" is used here where the wording "the owner" is used in § 35.730.

HUD is proposing that § 35.830 be revised to reflect the protocol for addressing EBLL cases as described above, with the difference that, because HUD is the owner of these properties, for specificity, "HUD" would be used in § 35.830 rather than the phrase "the owner" that would be used in § 35.730.

As noted above, to enable prompt HUD OLHCHH monitoring of implementation of the evaluation and hazard control procedures under this subpart when an EBLL case has occurred, HUD is proposing that the HUD office managing the property notify the HUD field office and the OLHCHH within 5 business days of being so notified by the public health department or medical health care professional.

5. *Subpart L—Public Housing Programs.* The purpose of this subpart L is to establish procedures to eliminate, as far as practicable, lead-based paint hazards in public housing. More formally, public housing is residential property assisted under the 1937 Act, excluding housing assisted under section 8 of the 1937 Act. Target housing assisted under section 8 is covered by subparts D, H, and M of the LSHR, rather than this subpart L.

This subpart currently requires specific actions in response to a child with an environmental intervention blood lead level in § 35.1130, which are generally the same as those for housing receiving project-based rental assistance in § 35.730 of subpart H, discussed in Section II.C.3, with a difference in terminology and some additional requirements.

Regarding the terminology, because the public housing agency (PHA) carries out the lead-based paint functions of owner of the properties covered by § 35.1130, the term "PHA" is used where the term "owner" is used in § 35.730. Similarly, "public housing development" is used in this section, where "dwelling unit to which this subpart applies" is used in § 35.730.

HUD is proposing that § 35.1130(e) require that PHAs report each confirmed (previously labelled "known," and revised to follow CDC terminology more closely) case of a child with an EBLL to the HUD field office; in the currently codified rule such reporting is required for EIBLL cases. As noted above, to enable prompt HUD monitoring of implementation of the evaluation and hazard control procedures under this subpart when an EBLL case has occurred, HUD is proposing that the designated party also notify the OLHCHH within 5 business days of being so notified by the public health department or medical health care professional of an EBLL case.

The case of the PHA not completing the hazard reduction required by § 35.1130, which was not addressed in the original rule, is addressed here by noting the linkage between the LSHR and the Uniform Physical Condition Standards (UPCS) at § 5.703, which are incorporated by reference into the public housing regulations at 24 CFR part 965. In particular, if the hazard reduction is not completed, the dwelling unit is not free of lead-based paint hazards, so it is in violation of § 5.703(f), which among other things, requires that the housing be free of lead-based paint hazards. The UPCS are incorporated by reference into the public housing physical condition standards at § 965.601. The LSHR, including its subpart L, Public Housing, is also incorporated by reference into the public housing standards at § 965.701.

Most significantly, current § 35.1130(f) establishes requirements for PHAs regarding other units in the building with the index unit if the risk assessment of the index unit and common areas servicing the index unit identifies lead-based paint hazards but previous evaluations of the building did not identify lead-based paint or lead-based paint hazards. In such a case, the PHA is required to conduct a risk assessment of other units covered by the LSHR in the building, and interim controls of identified hazards.

HUD is proposing that, generally, if previous evaluations of the building did identify lead-based paint or lead-based paint hazards, and the risk assessment of the index unit and common areas servicing the index unit identifies lead-based paint hazards, then, generally, the PHA would conduct a risk assessment in other dwelling units covered by the LSHR in which a child under age 6 resides or is expected to reside (and the common areas that service those units). The risk assessments would have to be conducted on a schedule described above, within 30 calendar days after receipt of the environmental investigation report if there are 20 or fewer such units, or 60 calendar days if there are more such units. If lead-based paint hazards are found in any of these other units, they would have to be controlled on a schedule described above, within 30 calendar days, or within 90 calendar days if more than 20 units have lead-based paint hazards such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d). However, if the PHA has met the applicable performance requirements in Section II.A.2, above, for conducting current evaluations, notifications, disclosure, and ongoing lead-based paint maintenance and management in the 12 months before receiving the report of a child with EBLL in the index unit, and provides the HUD field office with documentation of its regulatory compliance, HUD would encourage the PHA to conduct a risk assessment in other dwelling units covered by the LSHR in which a child under age 6 resides (and the common areas that service them), although it would not be required to do so.

HUD is proposing that § 35.1130 be revised to refer to an elevated blood lead level, and that the section be updated to reflect the protocol for addressing EBLL cases as described above, with the differences that, because the PHA is the owner of these properties, for specificity, "PHA" would be used in § 35.1130 rather than the phrase "the owner" that would be used in § 35.730.

HUD is proposing to make a technical correction to § 35.1130(f). The first sentence (which HUD is proposing to redesignate as § 35.1130(f)(1)) discusses the requirement for the PHA to conduct interim controls of identified hazards in accordance with the schedule provided in, according to the currently codified rule, § 35.1120(c). The pertinent schedule in § 35.1120 is, however, in paragraph (b), not paragraph (c), so HUD proposes to correct the citation.

6. *Subpart M—Tenant-Based Rental Assistance.* The purpose of this subpart is to establish procedures to eliminate as far as practicable lead-based paint hazards in housing occupied by families receiving tenant-based rental assistance.

This subpart currently requires specific actions in response to a child with an environmental intervention blood lead level in § 35.1225, Child with an environmental intervention blood lead level; similar to those for housing receiving project-based rental assistance in § 35.730 of subpart H, discussed in Section II.C.3, with a difference in terminology and some variations in requirements.

Regarding the terminology, because of the variety of HUD assistance programs covered by this subpart (see § 35.1200(a)), the generic term "designated party" is used where the term "owner" is used in § 35.730 for project-based assisted housing.

As noted above, to enable prompt HUD monitoring of implementation of the evaluation and hazard control procedures under this subpart when an EBLL case has occurred, HUD is proposing that the designated party notify the HUD field office and the OLHCHH within 5 business days of being so notified by the public health department or medical health care professional.

Regarding the other tenant-based rental assisted units where a child less than 6 years is residing or expected to reside in a building with a tenant-based rental assisted unit with a child less than 6 years who has an EBLL, as noted in Section II.C.2, above, HUD is proposing that those other units and common areas servicing them receive a visual assessment for deteriorated paint. (As noted above, HUD does not have the discretion to require risk assessments in those other units and common areas servicing those other units.) The visual assessments would have to be conducted within 30 calendar days after receipt of the environmental investigation report. Similarly, the response action, should deteriorated paint be identified, would be paint stabilization, a treatment that does not require the quantitative information about dust-lead and soil-lead levels needed for the full set of interim control activities that a risk assessment provides. If deteriorated paint is found in any of these other units, the paint would have to be stabilized on a schedule described above, within 30 calendar days, or within 90 calendar days if more than 20 units have deteriorated paint such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d). Of course, a designated party may choose to conduct a risk assessment or environmental investigation of those other units and common areas, and conduct interim controls if lead-based paint hazards are identified, and even conduct that evaluation and hazard control in unassisted units with children under age 6, and HUD encourages them to do so.

For the sake of clarity regarding target housing occupied by families receiving tenant-based rental assistance with children under age 6 in which deteriorated paint has been identified by a visual assessment, HUD proposes to add a sentence to the end of § 35.1215(b). Regarding a subsequent housing assistance payment (HAP) contract for the unit (*i.e.,* after the unit is no longer under the original HAP contract), the added sentence would provide that paint stabilization must be completed for a family with a child under age 6 to occupy that unit. This would reaffirm the first sentence of paragraph (b), that, for units to be occupied by a child under age 6, the owner shall stabilize each deteriorated paint surface before commencement of assisted occupancy. The placement of this sentence will strengthening the protection against children under age 6 being lead poisoned by clarifying the need for paint stabilization before the unit is occupied by a child under age 6 under a HAP contract.

D. Specific Questions for Comments

While HUD welcomes comments on all aspects of this proposed rule, HUD is seeking specific comment on the following questions:

1. To facilitate effective HUD monitoring of responses to a case of an elevated blood lead level, the proposed rule would have designated parties provide documentation to HUD that the response actions have been conducted in the child's unit and in all other assisted units with a child under age 6, or if there are such other units, that the designated party has been complying with the LSHR for the past 12 months, and need not evaluate those other units.

a. Is this approach sufficient for HUD to effectively monitor response actions in these cases, and why? Are there areas in which reporting and oversight could be strengthened?

b. Can the approach to monitoring response actions in these cases be streamlined while maintaining its effectiveness, and if so, how?

2. Regarding the definition of elevated blood lead level in the proposed rule, is the definition appropriately protective of the health of children in assisted housing covered by the rule? Too protective? Not protective enough? Why?

3. Regarding the set of types of housing assistance covered by the proposed rule (*i.e.,* in the covered subparts D, H, I, L, and M), is this set appropriately protective of the health of children in assisted housing?

a. If it is too protective, why, and which types of housing assistance should be removed from the proposed rule?

b. If it is not protective enough, why, which additional type or types of housing assistance should be included, and how would sufficient resources be provided to ensure implementation and monitoring of the rule in that additional assisted housing?

4. If interim controls or abatement in a housing unit takes longer than 5 calendar days, or if other occupant protection requirements of 24 CFR 35.1345(a)(2) are not met, the occupants of the unit shall be shall be temporarily relocated before and during hazard reduction activities.

a. HUD is seeking data on the fraction of lead hazard control activities that take longer than 5 calendar days, including the type of activity (*e.g.,* interim control or abatement; the hazard control method used (*e.g.,* if abatement, component removal, paint stripping, enclosure, encapsulation, etc.), the extent of the work, the reason that the activities cannot be completed within 5 calendar days, whether the housing is a single family, duplex, triplex, quad, or multifamily housing, whether it is located in an urban, suburban, or rural area, whether the EPA has authorized the state to administer the applicable lead certification program (*i.e.,* renovation or abatement), and other factors that are causing temporary relocation to be required under the rule.

b. HUD is seeking information on the costs of temporary relocation, on a per day basis (average amount or day-specific amounts, as is available), including breakouts of expenses for such categories as lodging, transportation, meals, and incidental expense amounts, if the information is available that way, or as lump sum per-day or per relocation period amounts.

III. Findings and Certifications

Regulatory Review—Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are "outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.

OMB reviewed this proposed rule under Executive Order 12866 (entitled "Regulatory Planning and Review"). This rule was determined to be a "significant regulatory action," as defined in 3(f) of the order. The docket file is available for public inspection electronically at Federal eRulemaking Portal at *http://www.regulations.gov* under the title and docket number of this rule.

Regulatory Impact Assessment

HUD is publishing, concurrently with this proposal, its draft Regulatory Impact Analysis (RIA) that examines the costs and benefits of the proposed regulatory action in conjunction with this proposed rule, organized into three sections: Cost-Benefit Analysis; Sensitivity Analysis; and Economic Impacts. The RIA is available on-line at: *http://www.regulations.gov.* The major findings in the RIA are presented in this summary.

The analysis of net benefits reflects costs and benefits associated with the first year of hazard evaluation and reduction activities under the proposed rule. These costs and benefits, however, include the present value of future costs and benefits associated with first year hazard reduction activities. For example, the costs associated with first year activities include the present value of future reevaluation costs. Similarly, the benefits of first year activities include the present value of lifetime earnings benefits for children living in or visiting the affected unit during that first year, and for children living in or visiting that unit during the second and subsequent years after hazard reduction activities.

In regard to the discount rate used for this regulatory analysis, HUD is using both the 3 percent, and the 7 percent discount rates in accordance with OMB guidance in OMB Circulars A–4 on Regulatory Analysis,[70] and A–94 on Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs.[71] By presenting results using both 3 and 7 percent discount rates, HUD is providing a broad view of costs and benefits.

Employing a 3 percent discount rate of the lifetime earnings estimates, the RIA concludes that monetized benefits of activities have a present value of $97.91 million; while first-year costs are $22.17 million. Thus the estimated net benefit is $75.74 million using a 3 percent discount rate. If a 7 percent discount rate is used for lifetime earnings benefits, the monetized present value of the benefits of the proposed rule are estimated to be $31.81 million, and estimated first year costs remain at $22.17 .28 million. The proposed rule would therefore be seen as having a net benefit of $9.64 million using the 7 percent discount rate. Further, the monetized benefit estimates represent a lower bound on benefits, as they only account for lifetime earnings resulting from cognitive impacts on children under age six. Reductions in lead exposure would be expected to result in additional health benefits for these children, as well as older children and adults living in or visiting the housing units addressed by the rule. Such additional benefits include avoidance of decreased attention, increased impulsivity, hyperactivity,[72] impaired hearing, slowed growth, delayed menarche,[73]

That the benefit-cost calculation giving lower weight to future generations shows a smaller net benefit is not surprising, given that the monetized benefits of the rule pertain to the future earnings of children under age 6, while the costs pertain to the designated parties of the housing in which the young children currently reside. As noted above, the calculation included monetized but not non-monetized quality of life factors associated with children's lower intelligence, fewer skills, and reduced education and job potential, and adults' decreased cognitive function decrements, psychopathological effects (self-reported symptoms of depression and anxiety), hypertension, coronary heart disease, blood system effects (decreased red blood cell survival and function, and altered heme synthesis), male reproductive function decrements, among other effects.[74]

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[70] *https://www.whitehouse.gov/omb/circulars_a004_a-4/.*

[71] *https://www.whitehouse.gov/omb/circulars_a094.*

[72] EPA. Integrated Science Assessment for Lead (see fn. 1, above). 2013. Table ES–1. p. lxxxiii–lxxxvii.

[73] Selevan SG, Rice DC, Hogan KA, Euling SY, Pfahles-Hutchens A, Bethel J. Blood lead concentration and delayed puberty in girls. N Engl J Med. 2003 Apr 17;348(16):1527–36. *www.nejm.org/doi/full/10.1056/NEJMoa020880.*

Paperwork Reduction Act Statement

The number of housing units that would require evaluation, possible hazard reduction, and/or reporting of EBLL information to HUD would be changed by the proposed rule. Accordingly, HUD is requesting OMB approval for revising its information collection request approval to reflect the change in the burden.

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), for incorporation under existing OMB approval number 2539–0009. In accordance with the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

TABLE 1—REQUIREMENTS FOR NOTIFICATION, EVALUATION, AND REDUCTION OF LEAD-BASED PAINT HAZARDS IN FEDERALLY OWNED RESIDENTIAL PROPERTY AND HOUSING RECEIVING FEDERAL ASSISTANCE

Information collection	Number of respondents	Frequency of response	Total annual responses	Burden hours per response	Total annual burden hours	Total annual cost
Notice of Evaluation	6,887	4	27,550	0.175	4,821	$42,819
Notice of Reduction	6,887	3.17	21,833	0.1	2,183	25,707
Summary Reporting	6,887	8	55,100	0.1	5,510	59,404
Recordkeeping	6,887	4	27,550	0.033	909	10,808
EBLL Report	6,887	4	27,550	1	27,550	278,907
Total or *Average*	6,887	23	159,583	*5.95*	40,974	417,645

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning the information collection requirements in this interim rule regarding:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the collection of information;

(3) Whether the collection of information enhances the quality, utility, and clarity of the information to be collected; and

(4) Whether the information collection minimizes the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses).

Interested persons are invited to submit comments regarding the information collection requirements in this rule. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after the publication date. Therefore, a comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of the publication date. This time frame does not affect the deadline for comments to the agency on the interim rule, however. Comments must refer to the interim rule by name and docket number (FR–5816–P–01) and must be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Fax number: (202) 395–6947.

And

Anna P. Guido, HUD Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., Room 4186, Washington, DC 20410.

Interested persons may submit comments regarding the information collection requirements electronically through the Federal eRulemaking Portal at *http://www.regulations.gov*. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). HUD has determined that the following provisions contain information collection requirements: 24 CFR part 35, subparts D, H, I, L, and M.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), HUD has reviewed this proposed rule before publication and by approving it for publication, certifies that the proposed regulatory requirements would not have a significant economic impact on a substantial number of small entities, other than those impacts specifically required to be applied universally by the statute. As discussed below, the requirements of the proposed rule are applicable only to a limited and specifically defined portion of the nation's housing stock. To the extent that the requirements affect small entities, the impact is generally discussed in the economic analysis that accompanies this proposed rule.

Specifically, the economic analysis estimated the number of index units and other assisted units to be evaluated and, possibly, based on the evaluation, having lead hazard control work done. For each type of assistance and for all types of assistance together, the economic analysis also estimated:

- The cost per unit of the evaluation (environmental investigation for index units, and risk assessments or visual assessment for other units that are assisted and have a child under age 6 residing, as per the current LSHR);
- The total cost of the evaluation and hazard control (for index units, other units, and both); and

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[74] EPA. Integrated Science Assessment for Lead (see fn. 1, above). 2013. Table ES–1. p. lxxxiii–lxxxvii.

- The percentage of units evaluated and possibly, based on the evaluation results, hazard controlled (again, for index units, other units, and both).

The estimates are summarized in the table below.

	Public housing	HUD Project-based	Tenant-based	USDA Project-based	All assistance types
Number of index units	1,899	1,494	3,383	112	6,887
Average cost per index unit for environmental investigation and hazard control	$2,680	$2,680	$2,680	$2,680	....
Cost for index units	$5,090,047	$4,004,506	$9,066,416	$300,206	$18,461,176
Other assisted units with children under age 6	8,014	3,783	2,855	284	14,935
Average cost per other assisted housing unit for risk assessment (or visual assessment) and hazard control	$615	$615	$260	$615	....
Cost for other assisted units	$4,924,470	$2,324,545	$740,829	$174,264	$8,164,108
Total cost	$10,014,517	$6,329,051	$9,807,245	$474,471	$26,625,284
Total number of units evaluated and possibly hazard controlled	9,913	5,277	6,237	396	21,822
Total number of assisted units	1,100,000	1,200,000	2,200,000	286,108	4,786,108
Percent of assisted units evaluated and possibly hazard controlled	0.90%	0.44%	0.28%	0.14%	0.46%

Among the key results are that:

- About 6,887 housing units would have a child under age 6 with a blood lead level that is elevated but not an environmental intervention blood lead level; these units would be required to have an environmental investigation and have any lead-based paint hazards controlled.
- About 14,935 other housing units would be evaluated and have any lead-based paint hazards controlled.
- About 0.46 percent of the assisted housing stock covered by this rulemaking would be evaluated and have any lead-based paint hazards controlled, specifically, 0.90 percent of the public housing stock, 0.44 percent of the HUD project-based rental assisted housing stock, 0.28 percent of the tenant-based rental assisted housing stock, and 0.14 percent of the U.S. Department of Agriculture (USDA) project-based rental assisted housing stock.
- The total cost of evaluation and control (and the small amount of temporary relocation of occupants) would be $26.63 million, including $10.01 million for public housing, $6.33 million for HUD project-based rental assisted housing, $9.81 million for tenant-based rental assisted housing, and $286,000 for USDA project-based rental assisted housing.
- Using the 3 percent discount rate, benefits are estimated at $97.91 million, with net benefits (*i.e.,* benefits less the $22.17 million in costs) estimated at $75.74 million. Using the OMB's 7 percent discount rate, benefits are estimated at $31.81 million, with costs remaining at $22.17 million, so the net benefits would be $9.65 million.
- Regarding index units, for FY 2017, an estimated 1,899 units of public housing, 1,494 units of HUD project-based rental assisted housing, 3,383 units of tenant-based rental assisted housing, and 112 units of USDA project-based rental assisted housing have children under age 6 with EBLLs that are not EIBLLs, that is, children for whom an environmental investigation and possible (*i.e.,* if hazards are found) hazard control of their housing unit and common area servicing it would be newly required under the proposed rule.
- Regarding other units to have lead hazard control work conducted, for FY 2015, there would be an estimated 8,014 units of public housing, 3,783 units of HUD project-based rental assisted housing, 3,383 units of tenant-based rental assisted housing, and 112 units of USDA project-based rental assisted housing.
- The conservative (*i.e.,* intentionally high, in this instance) assumption about the properties in which these children reside is that each of them is a different property (vs. there being more than one such child in a property); a similarly conservative assumption about the private entities (*i.e.,* the ones that lease the project-based and the tenant-based assisted units to the families of these children) is that all of them are small entities and all have just one such child (vs. an entity having more than one property with such a child). The economic analysis used the FY 2017 Congressional Justifications of the number of housing units assisted by the several programs: 1,100,000 public housing units, 1,200,000 HUD project-based units, 2,200,000 tenant-based units, and 286,108 USDA project-based units. Regarding units other than the index units, a maximum of approximately 0.73 percent of other public housing units, 0.32 percent of other HUD project-based units, 0.13 percent of other tenant-based units, and 0.10 percent of USDA project-based units (overall, 0.31 percent of units in these assistance programs) would be required to undertake a risk assessment and, possibly, based on the risk assessment, lead hazard control.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is available for public inspection electronically at Federal eRulemaking Portal at *http://www.regulations.gov* under the title and docket number of this rule.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments or is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule will not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This rule does not impose any federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of UMRA.

List of Subjects in 24 CFR Part 35

Grant programs—housing and community development, Lead poisoning, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, HUD amends 24 CFR part 35 to read as follows:

PART 35—LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

■ 1. The authority citation for 24 CFR part 35 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 4821, and 4851.

■ 2. In § 35.100, add, in alphabetical order the definitions of "Elevated blood lead level", "Environmental investigations", revise the definitions of "Evaluation" and "Expected to reside" and delete the definition of "Environmental intervention blood lead level", to read as follows:

§ 35.110 Definitions.

Elevated blood lead level means a confirmed concentration of lead in whole blood of a child under age 6 equal to or greater than the concentration in the most recent guidance published by the U.S. Department of Health and Human Services (HHS) on recommending that an environmental intervention be conducted. (When HHS changes the value, HUD will publish a notice in the **Federal Register**, with the opportunity for public comment, on its intent to apply the changed value to this part, and, after considering comments, publish a notice on its applying the changed value to this part.)

* * * * *

Environmental investigation means the process of determining the source of lead exposure for a child under age 6 with an elevated blood lead level, consisting of administration of a questionnaire, comprehensive environmental sampling, case management, and other measures, in accordance with chapter 16 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing ("Guidelines").

* * * * *

Evaluation means a risk assessment, a lead hazard screen, a lead-based paint inspection, paint testing, or a combination of these to determine the presence of lead-based paint hazards or lead-based paint, or an environmental investigation.

Expected to reside means there is actual knowledge that a child will reside in a dwelling unit reserved or designated exclusively for the elderly or reserved or designated exclusively for persons with disabilities. If a resident woman is known to be pregnant, there is actual knowledge that a child will reside in the dwelling unit.

* * * * *

■ 3. Amend § 35.125 by adding paragraph (c)(4)(iii) to read as follows:

§ 35.125 Notice of evaluation and hazard reduction activities.

* * * * *

(c) * * *

(4) * * *

(iii) However, for the protection of the privacy of the child and the child's family or guardians, no notice of environmental investigation shall be posted to any centrally located common area.

§ 35.165 Prior evaluation or hazard reduction.

■ 4. In § 35.165 amend paragraph (b)(4) by removing the term "environmental intervention blood level" wherever it appears and adding its place the term "elevated blood lead level".

■ 5. Revise § 35.325 to read as follows:

§ 35.325 Child with an elevated blood lead level.

(a) If a child less than 6 years of age living in a federally assisted dwelling unit has an elevated blood lead level, the owner shall immediately conduct an environmental investigation. Interim controls of identified lead-based paint hazards shall be conducted in accordance with § 35.1330.

(b) *Other assisted dwelling units in the property.* If the environmental investigation conducted under paragraph (a) of this section identifies lead-based paint hazards, the owner shall conduct a risk assessment for other assisted dwelling units covered by this subpart in which a child under age 6 resides or is expected to reside on the date interim controls are complete, and for the common areas serving those units. The risk assessments would be conducted within 30 calendar days after receipt of the environmental investigation report on the index unit if there are 20 or fewer such units, or 60 calendar days for risk assessments if there are more than 20 such units. If the risk assessment identifies lead-based paint hazards, the owner shall control the hazards in those units and common areas within 30 calendar days, or within 90 calendar days if more than 20 units have lead-based paint hazards such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d). The requirements for other assisted dwelling units covered by this subpart do not apply if:

(1) The owner conducted an environmental investigation and conducted interim controls of identified lead-based paint hazards between the date the child's blood was last sampled and the date the owner received the notification of the elevated blood lead level; or

(2) The owner provides the Federal agency documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance, and lead-based paint management requirements under this part throughout the 12 months preceding the date the owner received the environmental investigation report.

(c) Interim controls are complete when clearance is achieved in accordance with § 35.1340.

(d) The Federal agency shall establish a timetable for completing environmental investigations and hazard reduction when a child identified as having an elevated blood lead level is identified.

§ 35.715 Multifamily properties receiving more than $5,000 per unit.

■ 6. Amend § 35.715 by:

■ a. Redesignating paragraph (d)(4) as paragraph (e); and

■ b. Removing the term "environmental intervention blood level" and adding in its place "elevated blood lead level".

§ 35.720 Multifamily properties receiving up to $5,000 per unit, and single family properties.

■ 7. In § 35.720 amend paragraph (c) by removing the term "environmental intervention blood level" wherever it appears and adding in its place "elevated blood lead level".

■ 8. Revise § 35.730 to read as follows:

§ 35.730 Child with an elevated blood lead level.

(a) *Environmental investigation.* Within 15 calendar days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in a dwelling unit to which this subpart applies has been identified as having an elevated blood lead level, the owner shall complete an environmental investigation of the dwelling unit in which the child lived at the time the blood was last sampled and of common areas servicing the dwelling unit. The requirements of this paragraph apply regardless of whether the child is or is not still living in the unit when the owner receives the notification of the elevated blood lead level. The requirements of this paragraph shall not apply if the owner conducted an environmental investigation of the unit and common areas servicing the unit between the date the child's blood was last sampled and the date when the owner received the notification of the elevated blood lead level. If the owner conducted a risk assessment of the unit and common areas servicing the unit during that period, the owner need not conduct another risk assessment there but shall conduct the elements of an environmental investigation not already conducted during the risk assessment. If a public health department has already conducted an evaluation of the dwelling unit, the requirements of this paragraph (a) of this section shall not apply.

(b) *Verification.* After receiving information from a person who is not a medical health care provider that a child of less than 6 years of age living in a dwelling unit covered by this subpart may have an elevated blood lead level, the owner shall immediately verify the information with the public health department or other medical health care provider. If the public health department or provider denies the request, such as because it does not have the capacity to verify that information, the owner shall send documentation of the denial to the HUD rental assistance program manager, who shall make an effort to verify the information. If the public health department or provider verifies that the child has an elevated blood lead level, such verification shall constitute notification, and the owner shall take the action required in paragraphs (a) and (c) of this section.

(c) *Hazard reduction.* Within 30 calendar days after receiving the report of the environmental investigation conducted pursuant to paragraph (a) of this section or the evaluation from the public health department, the owner shall complete the reduction of identified lead-based paint hazards in accordance with § 35.1325 or § 35.1330. Hazard reduction is considered complete when clearance is achieved in accordance with § 35.1340 and the clearance report states that all lead-based paint hazards identified in the environmental investigation have been treated with interim controls or abatement or the public health department certifies that the lead-based paint hazard reduction is complete. The requirements of this paragraph do not apply if the owner, between the date the child's blood was last sampled and the date the owner received the notification of the elevated blood lead level, already conducted an environmental investigation of the unit and common areas servicing the unit and completed reduction of identified lead-based paint hazards. If the owner conducted a risk assessment of the unit and common areas servicing the unit during that period, the owner is not required to conduct another risk assessment there but shall conduct the elements of an environmental investigation n not already conducted during the risk assessment.

(d) If an environmental investigation, evaluation or hazard reduction is undertaken, each owner shall provide notice to occupants in accordance with § 35.125.

(e) *Reporting requirement.* (1) The owner shall report the name and address of a child identified as having an elevated blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

(2) The owner shall also report each confirmed case of a child with an elevated blood lead level to the HUD field office and HUD Office of Lead Hazard Control and Healthy Homes within 5 business days of being so notified.

(3) The owner shall provide to the HUD field office documentation that the designated party has conducted the activities of paragraphs (a) through (d) of this section, within 10 business days of the deadline for each activity.

(f) *Other assisted dwelling units in the property.* (1) If the environmental investigation conducted pursuant to paragraph (a) of this section identifies lead-based paint hazards, the owner shall, for other assisted dwelling units covered by this part in which a child under age 6 resides or is expected to reside on the date hazard reduction under paragraph (c) of this section is complete, and for the common areas servicing those units, conduct a risk assessment if the unit investigated was covered by § 35.715, within 30 calendar days after receipt of the environmental investigation report if there are 20 or fewer such other units, or 60 calendar days if there are more than 20 such other units; or conduct a visual assessment if the unit investigated was covered by § 35.720, within 30 calendar days of receipt of the environmental investigation report.

(2) *Control measures.* (i) If the risk assessment conducted under paragraph (f)(1) of this section identifies lead-based paint hazards, the owner shall complete the reduction of identified lead-based paint hazards in accordance with § 35.1325 or § 35.1330 in those units and common areas within 30 calendar days, or within 90 calendar days if more than 20 units have lead-based paint hazards such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d).

(ii) If the visual assessment conducted under paragraph (f)(1) of this section identifies deteriorated paint, the owner shall stabilize the paint in those units and common areas within 30 calendar days, or within 90 calendar days if more than 20 units have lead-based paint hazards such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d).

(3) The owner shall provide to the HUD field office documentation that the designated party has conducted the activities of paragraph (f)(1) and (f)(2) of this section, within 10 business days of the deadline for each activity.

(4) The requirements of this paragraph (f) do not apply if the property meets any of these conditions:

(i) If the property is covered by § 35.715, the owner conducted a risk assessment and conducted interim controls of identified lead-based paint hazards in accordance with § 35.175(b) between the date the child's blood was last sampled and the date the owner received the notification of the elevated blood lead level;

(ii) If the property is covered by § 35.720, the owner conducted a visual assessment and stabilized deteriorated paint (unless it was determined not to be lead-based paint) identified in accordance with § 35.720(b)(2) in the other assisted dwelling units and the common areas serving those units, between the date the child's blood was last sampled and the date the owner received the notification of the elevated blood lead level; or

(iii) The owner has documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance, and lead-based paint management requirements under this part throughout the 12 months preceding the date the owner received the environmental investigation report pursuant to paragraph (a) of this section; and

(iv) The owner provides to the HUD field office documentation that it has conducted the activities of paragraphs (f)(4)(i) through (iii) of this section, within 10 business days of the deadline for each activity.

(g) HUD encourages the owner to evaluate for sources of lead exposure in units other than those covered by this subpart, and to control such sources.

■ 9. Revise § 35.830 to read as follows:

§ 35.830 Child with an elevated blood lead level.

(a) *Environmental investigation.* Within 15 calendar days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in a dwelling unit owned by HUD (or where HUD is mortgagee-in-possession) has been identified as having an elevated blood lead level, HUD shall complete an environmental investigation of the dwelling unit in which the child lived at the time the blood was last sampled and of common areas servicing the dwelling unit. The requirements of this paragraph apply regardless of whether the child is or is not still living in the unit when HUD receives the notification of the elevated blood lead level. The requirements of this paragraph shall not apply if HUD conducted an environmental investigation of the unit and common areas servicing the unit between the date the child's blood was last sampled and the date when HUD received the notification of the elevated blood lead level. If HUD conducted a risk assessment of the unit and common areas servicing the unit during that period, HUD is not required to conduct another risk assessment there but it shall conduct the elements of an environmental investigation not already conducted during the risk assessment. If a public health department has already conducted an evaluation of the dwelling unit, the requirements of this paragraph shall not apply.

(b) *Verification.* After receiving information from a person who is not a medical health care provider that a child of less than 6 years of age living in a dwelling unit covered by this subpart may have an elevated blood lead level, HUD shall immediately verify the information with the public health department or other medical health care provider. If the public health department or provider denies the request, such as because it does not have the capacity to verify that information, the HUD Realty Specialist assigned to that property shall send documentation of the denial to the HUD Office of Lead Hazard Control and Healthy Homes, which shall make an effort to verify the information. If the public health department or provider verifies that the child has an environmental intervention blood lead level, such verification shall constitute notification, and HUD shall take the action required in paragraphs (a) and (c) of this section.

(c) *Hazard reduction.* Within 30 calendar days after receiving the report of the environmental investigation conducted pursuant to paragraph (a) of this section or the evaluation from the public health department, HUD shall complete the reduction of identified lead-based paint hazards in accordance with § 35.1325 or § 35.1330. Hazard reduction is considered complete when clearance is achieved in accordance with § 35.1340 and the clearance report states that all lead-based paint hazards identified in the environmental investigation have been treated with interim controls or abatement or the public health department certifies that the lead-based paint hazard reduction is complete. The requirements of this paragraph do not apply if HUD, between the date the child's blood was last sampled and the date HUD received the notification of the elevated blood lead level, already conducted an environmental investigation of the unit and common areas servicing the unit and completed reduction of identified lead-based paint hazards. If HUD conducted a risk assessment of the unit and common areas servicing the unit during that period, it is not required to conduct another risk assessment there but it shall conduct the elements of an environmental investigation not already conducted during the risk assessment.

(d) *Notice.* If evaluation or hazard reduction is undertaken, each owner shall provide a notice to occupants in accordance with § 35.125.

(e) *Reporting requirement.* (1) HUD shall report the name and address of a child identified as having an elevated blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

(2) HUD shall also report each confirmed case of a child with an elevated blood lead level to the HUD Office of Lead Hazard Control and Healthy Homes within 5 business days of being so notified.

(3) HUD shall provide to the HUD Office of Lead Hazard Control and Healthy Homes documentation that it has conducted the activities of paragraphs (a) through (d) of this section, within 10 business days of the deadline for each activity.

(f) *Other assisted dwelling units in the property.* (1) If the environmental investigation conducted pursuant to paragraph (a) of this section identifies lead-based paint hazards, HUD shall, for other assisted dwelling units covered by this part in which a child under age 6 resides or is expected to reside on the date hazard reduction under paragraph (c) of this section, and the common areas servicing those units, is complete, conduct a risk assessment in accordance with § 35.815 within 30 calendar days after receipt of the environmental investigation report if there are 20 or fewer such other units, or 60 calendar days if there are more than 20 such other units.

(2) If the risk assessment conducted under paragraph (f)(1) of this section identifies lead-based paint hazards, HUD shall complete the reduction of identified lead-based paint hazards in accordance with § 35.1325 or § 35.1330 in those units and common areas within 30 calendar days, or within 90 calendar days if more than 20 units have lead-based paint hazards such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d).

(3) The requirements of this paragraph (f) do not apply if HUD, between the date the child's blood was last sampled and the date HUD received the notification of the elevated blood lead level, conducted a risk assessment in the other assisted dwelling units and the common areas serving those units, and conducted interim controls of identified lead-based paint hazards in accordance with § 35.820.

(4) The requirements of this section do not apply if HUD has documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance, and lead-based paint management requirements under this part throughout the 12 months preceding the date HUD received the environmental investigation report pursuant to paragraph (a) of this section.

(5) HUD shall provide to the HUD Office of Lead Hazard Control and Healthy Homes documentation that it has conducted the activities of paragraph (f)(1) through (3) of this section, or that it has complied with the requirements in paragraph (f)(4) of this section, within 10 business days of the deadline for each activity.

(g) *Closing.* If the closing of a sale is scheduled during the period when HUD is responding to a case of a child with an elevated blood lead level, HUD may arrange for the completion of the procedures required by paragraphs (a) through (d) of this section by the purchaser within a reasonable period of time.

(h) *Extensions.* The Assistant Secretary for Housing-Federal Housing Commissioner or designee may consider and approve a request for an extension of deadlines established by this section for lead-based paint inspection, risk assessment, environmental investigation, hazard reduction, and reporting. Such a request may be considered, however, only during the first six months during which HUD is owner or mortgagee-in-possession of a multifamily property.

■ 10. Revise § 35.1130 to read as follows:

§ 35.1130 Child with an elevated blood lead level.

(a) *Environmental investigation.* Within 15 calendar days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in a dwelling unit to which this subpart applies has been identified as having an elevated blood lead level, the PHA shall complete an environmental investigation of the dwelling unit in which the child lived at the time the blood was last sampled and of common areas servicing the dwelling unit. The environmental investigation is considered complete when the PHA receives the environmental investigation report. The requirements of this paragraph apply regardless of whether the child is or is not still living in the unit when the PHA receives the notification of the elevated blood lead level. The requirements of this paragraph shall not apply if the PHA conducted an environmental investigation of the unit and common areas servicing the unit between the date the child's blood was last sampled and the date when the PHA received the notification of the elevated blood lead level. If the PHA conducted a risk assessment of the unit and common areas servicing the unit during that period, the PHA need not conduct another risk assessment there but shall conduct the elements of an environmental investigation not already conducted during the risk assessment. If a public health department has already conducted an evaluation of the dwelling unit, the requirements of this paragraph shall not apply.

(b) *Verification.* After receiving information from a person who is not a medical health care provider that a child of less than 6 years of age living in a dwelling unit covered by this subpart may have an elevated blood lead level, the PHA shall immediately verify the information with the public health department or other medical health care provider. If that department or provider denies the request, such as because it does not have the capacity to verify that information, the PHA shall send documentation of the denial to its HUD field office, who shall make an effort to verify the information. If that department or provider verifies that the child has an elevated blood lead level, such verification shall constitute notification, and the housing agency shall take the action required in paragraphs (a) and (c) of this section.

(c) *Hazard reduction.* Within 30 calendar days after receiving the report of the environmental investigation conducted pursuant to paragraph (a) of this section or the evaluation from the public health department, the PHA shall complete the reduction of identified lead-based paint hazards in accordance with § 35.1325 or § 35.1330. Hazard reduction is considered complete when clearance is achieved in accordance with § 35.1340 and the clearance report states that all lead-based paint hazards identified in the environmental investigation have been treated with interim controls or abatement or the local or State health department certifies that the lead-based paint hazard reduction is complete. The requirements of this paragraph do not apply if the PHA, between the date the child's blood was last sampled and the date the PHA received the notification of the elevated blood lead level, already conducted an environmental investigation of the unit and common areas servicing the unit and completed reduction of identified lead-based paint hazards. If the PHA conducted a risk assessment of the unit and common areas servicing the unit during that period, it is not required to conduct another risk assessment there but it shall conduct the elements of an environmental investigation not already conducted during the risk assessment. If the PHA does not complete the hazard reduction required by this section, the dwelling unit is in violation of the standards of 24 CFR 965.601, which incorporates the uniform physical condition standards of § 5.703(f), including that it be free of lead-based paint hazards.

(d) *Notice of evaluation and hazard reduction.* The PHA shall notify building residents of any evaluation or hazard reduction activities in accordance with § 35.125.

(e) *Reporting requirement.* (1) The PHA shall report the name and address of a child identified as having an elevated blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

(2) The PHA shall report each confirmed case of a child with an elevated blood lead level to the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes within 5 business days of being so notified.

(3) The PHA shall provide to the HUD field office documentation that it has conducted the activities of paragraphs (a) through (d) of this section, within 10 business days of the deadline for each activity.

(f) *Other units in the property.* (1) If the environmental investigation conducted pursuant to paragraph (a) of this section identifies lead-based paint hazards, the PHA shall conduct a risk assessment of other units of the building covered by this subpart within 30 calendar days after receipt of the environmental investigation report if there are 20 or fewer such other units, or 60 calendar days if there are more than 20 such other units, and shall complete the reduction of identified lead-based paint hazards in accordance with § 35.1325 or § 35.1330 within 30 calendar days, or within 90 calendar days if more than 20 units have lead-based paint hazards such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d).

(2) If the environmental investigation conducted pursuant to paragraph (a) of this section identifies lead-based paint hazards and previous evaluations of the building conducted pursuant to § 35.1320 identified lead-based paint or lead-based paint hazards, the PHA shall, for other dwelling units in the property in which a child under age 6 resides or is expected to reside on the date hazard reduction under paragraph (c) of this section is complete, and the common areas serving those units, conduct a risk assessment within 30 calendar days after receipt of the environmental investigation report if there are 20 or fewer such units, or 60 calendar days if there are more such units.

(3) Control measures. If the risk assessment conducted under paragraph (f)(2) of this section identifies lead-based paint hazards, the PHA shall control the hazards in those units and common areas within 30 calendar days, or within 90 calendar days if more than 20 units have lead-based paint hazards such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d).

(4) The PHA shall provide to the HUD field office documentation that it has conducted the activities of paragraphs (f)(1) through (3) of this section, within 10 business days of the deadline for each activity.

(5) The requirements of this paragraph (f) of this section do not apply if the PHA, between the date the child's blood was last sampled and the date the PHA received the notification of the elevated blood lead level, conducted a risk assessment of the other assisted dwelling units and the common areas serving those units, and conducted interim controls of identified hazards in accordance with § 35.1120(b); or if the PHA has documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance, and lead-based paint management requirements under this part throughout the 12 months preceding the date the PHA received the environmental investigation report pursuant to paragraph (a) of this section; and, in either case, the PHA provided the HUD field office, within 10 business days after receiving the notification of the elevated blood lead level,

documentation that it has conducted the activities described in this paragraph (f)(5) of this section.

(g) HUD encourages the PHA to evaluate for sources of lead exposure in units other than those covered by this subpart, and to control such sources.

§ 35.1135 Eligible costs.

■ 11. Amend § 35.1135(d) by removing the term "environmental intervention blood level" and adding in its place the term "elevated blood lead level".

■ 12. Revise § 35.1215(b) as follows:

§ 35.1215 Activities at initial and periodic inspection.

* * * * *

(b) * * * For the unit subsequently to come under a HAP contract with the housing agency for occupancy by a family with a child under age 6, paint stabilization must be completed, including clearance being achieved in accordance with Sec. 35.1340.

* * * * *

■ 13. Revise § 35.1225 to read as follows:

§ 35.1225 Child with an elevated blood lead level.

(a) Within 15 calendar days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in a dwelling unit to which this subpart applies has been identified as having an elevated blood lead level, the designated party shall complete an environmental investigation of the dwelling unit in which the child lived at the time the blood was last sampled and of common areas servicing the dwelling unit. When the environmental investigation is complete, the designated party shall immediately provide the report of the environmental investigation to the owner of the dwelling unit. If the child identified as having an elevated blood lead level is no longer living in the unit when the designated party receives notification from the public health department or other medical health care provider, but another household receiving tenant-based rental assistance is living in the unit or is planning to live there, the requirements of this section apply just as they do if the child still lives in the unit. If a public health department has already conducted an evaluation of the dwelling unit, or the designated party conducted an environmental investigation of the unit and common areas servicing the unit between the date the child's blood was last sampled and the date when the designated party received the notification of the elevated blood lead level, the requirements of this paragraph shall not apply. If the designated party or the owner conducted a risk assessment of the unit and common areas servicing the unit during that period, the designated party need not conduct another risk assessment there but shall conduct the elements of an environmental investigation not already conducted during the risk assessment.

(b) *Verification.* After receiving information from a person who is not a medical health care provider that a child of less than 6 years of age living in a dwelling unit covered by this subpart may have an elevated blood lead level, the designated party shall immediately verify the information with the public health department or other medical health care provider. If the public health department or provider denies the request, such as because it does not have the capacity to verify that information, the designated party shall send documentation of the denial to the HUD rental assistance program manager, who shall make an effort to verify the information. If that department or provider verifies that the child has an elevated blood lead level, such verification shall constitute notification, and the designated party shall take the action required in paragraphs (a) and (c) of this section.

(c) *Hazard reduction.* Within 30 calendar days after receiving the report of the environmental investigation from the designated party or the evaluation from the public health department, the owner shall complete the reduction of identified lead-based paint hazards in accordance with § 35.1325 or § 35.1330. Hazard reduction is considered complete when clearance is achieved in accordance with § 35.1340 and the clearance report states that all lead-based paint hazards identified in the environmental investigation have been treated with interim controls or abatement or the public health department certifies that the lead-based paint hazard reduction is complete. The requirements of this paragraph do not apply if the designated party or the owner, between the date the child's blood was last sampled and the date the designated party received the notification of the elevated blood lead level, already conducted an environmental investigation of the unit and common areas servicing the unit and the owner completed reduction of identified lead-based paint hazards. If the owner does not complete the hazard reduction required by this section, the dwelling unit is in violation of the standards of 24 CFR 982.401.

(d) *Notice of evaluation and hazard reduction.* The owner shall notify building residents of any evaluation or hazard reduction activities in accordance with § 35.125.

(e) *Reporting requirement.* (1) The owner shall report the name and address of a child identified as having an elevated blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

(2) The owner shall also report each confirmed case of a child with an elevated blood lead level to the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes within 5 business days of being so notified.

(3) The owner shall provide to the HUD field office documentation that it has conducted the activities of paragraphs (a) through (d) of this section, within 10 business days of the deadline for each activity.

(f) *Other assisted dwelling units in the property.* (1) If the environmental investigation conducted pursuant to paragraph (a) of this section identifies lead-based paint hazards, the designated party or the owner shall, for other assisted dwelling units covered by this part in which a child under age 6 resides or is expected to reside on the date hazard reduction under paragraph (c) of this section is complete, and the common areas serving those units, conduct a visual assessment in accordance with the procedures of § 35.1215(a), within 30 calendar days after receipt of the environmental investigation report if there are 20 or fewer such units, or 60 calendar days if there are more such units.

(2) If the visual assessment conducted under paragraph (f)(1) of this section identifies deteriorated paint, the owner shall stabilize the paint within 30 calendar days, or within 90 calendar days if more than 20 units have deteriorated paint such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d).

(3) The requirements of this paragraph (f) of this section do not apply if the designated party or the owner, between the date the child's blood was last sampled and the date the owner received the notification of the elevated blood lead level, conducted a visual assessment or risk assessment in those other assisted dwelling units and the common areas serving those units, and the owner stabilized deteriorated paint (unless it was determined not to be lead-based paint) identified; or if the owner has documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance,

and lead-based paint management requirements under this part throughout the 12 months preceding the date the owner received the environmental investigation report pursuant to paragraph (a) of this section; and, in either case, the owner provided the HUD field office, within 10 business days after receiving the notification of the elevated blood lead level, documentation that it has conducted the activities described in this paragraph (f)(4) of this section.

(g) HUD encourages the designated party or the owner to evaluate for sources of lead exposure in units other than those covered by this subpart, and to control such sources.

(h) *Data collection and record keeping responsibilities.* At least quarterly, the designated party shall attempt to obtain from the public health department(s) with area(s) of jurisdiction similar to that of the designated party the names and/or addresses of children of less than 6 years of age with an identified elevated blood lead level. At least quarterly, the designated party shall also report an updated list of the addresses of units receiving assistance under a tenant-based rental assistance program to the same public health department(s), except that the report(s) to the public health department(s) is not required if the health department states that it does not wish to receive such report. If it obtains names and addresses of elevated blood lead level children from the public health department(s), the designated party shall match information on cases of elevated blood lead levels with the names and addresses of families receiving tenant-based rental assistance, unless the public health department performs such a matching procedure. If a match occurs, the designated party shall carry out the requirements of this section.

Dated: August 26, 2016.

Michelle Miller,

Deputy Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 2016–20955 Filed 8–31–16; 8:45 am]

BILLING CODE 4210–67–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2015–0471; A–1–FRL–9943–04–Region 1]

Air Plan Approval; Connecticut; Open Burning and Portable Fuel Containers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut on November 19, 2012. We propose to approve Connecticut's request to remove two regulations from its SIP that regulate "open burning" and "portable fuel container spillage control." In place of the open burning regulation, we propose to approve into the Connecticut SIP a Connecticut statute that controls open burning. We also propose to approve a definition of "brush," which was included in a December 15, 2015 SIP submittal by Connecticut to meet infrastructure requirements of the Clean Air Act for the 2012 fine particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). The requirements in the Connecticut portable fuel container regulation have been superseded by federal portable fuel container requirements. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before October 3, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2015–0471 by one of the following methods:

1. *http://www.regulations.gov:* Follow the online instructions for submitting comments.

2. *Email: arnold.anne@epa.gov.*

3. *Mail:* "EPA–R01–OAR–2015–0471," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.

4. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1684, fax number (617) 918–0684, email *simcox.alison@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: February 4, 2016.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2016–21011 Filed 8–31–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 88

[NIOSH Docket 094]

World Trade Center Health Program; Petition 013—Autoimmune Disease; Finding of Insufficient Evidence

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Denial of petition for addition of a health condition.

SUMMARY: On April 4, 2016, the Administrator of the World Trade Center (WTC) Health Program received a petition (Petition 013) to add "relapsing remitting multiple sclerosis (autoimmune)" to the List of WTC-Related Health Conditions (List). Upon reviewing the information provided by the petitioner, the Administrator has determined that Petition 013 is not substantially different from Petitions

007, 008, 009, and 011, which also requested the addition of autoimmune diseases, including various subtypes. The Administrator recently published responses to the four previous petitions in the **Federal Register** and has determined that Petition 013 does not provide additional evidence of a causal relationship between 9/11 exposures and autoimmune diseases, including multiple sclerosis. Accordingly, the Administrator finds that insufficient evidence exists to request a recommendation of the WTC Health Program Scientific/Technical Advisory Committee (STAC), to publish a proposed rule, or to publish a determination not to publish a proposed rule.

DATES: The Administrator of the WTC Health Program is denying this petition for the addition of a health condition as of September 1, 2016.

FOR FURTHER INFORMATION CONTACT: Rachel Weiss, Program Analyst, 1090 Tusculum Avenue, MS: C–46, Cincinnati, OH 45226; telephone (855) 818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

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A. WTC Health Program Statutory Authority

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347, as amended by Pub. L. 114–113), added Title XXXIII to the Public Health Service Act (PHS Act),[1] establishing the WTC Health Program within the Department of Health and Human Services (HHS). The WTC Health Program provides medical monitoring and treatment benefits to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery, and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania (responders), and to eligible persons who were present in the dust or dust cloud on September 11, 2001 or who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area (survivors).

All references to the Administrator of the WTC Health Program (Administrator) in this notice mean the Director of the National Institute for Occupational Safety and Health (NIOSH) or his or her designee.

Pursuant to section 3312(a)(6)(B) of the PHS Act, interested parties may petition the Administrator to add a health condition to the List in 42 CFR 88.1. Within 90 days after receipt of a petition to add a condition to the List, the Administrator must take one of the following four actions described in section 3312(a)(6)(B) and 42 CFR 88.17: (1) Request a recommendation of the STAC; (2) publish a proposed rule in the **Federal Register** to add such health condition; (3) publish in the **Federal Register** the Administrator's determination not to publish such a proposed rule and the basis for such determination; or (4) publish in the **Federal Register** a determination that insufficient evidence exists to take action under (1) through (3) above. However, in accordance with 42 CFR 88.17(a)(4), the Administrator is required to consider a new petition for a previously-evaluated health condition determined not to qualify for addition to the List only if the new petition presents a new medical basis—evidence not previously reviewed by the Administrator—for the association between 9/11 exposures and the condition to be added.

B. Approval To Submit Document to the Office of the Federal Register

The Secretary, HHS, or her designee, the Director, Centers for Disease Control and Prevention (CDC) and Administrator, Agency for Toxic Substances and Disease Registry (ATSDR), authorized the undersigned, the Administrator of the WTC Health Program, to sign and submit the document to the Office of the Federal Register for publication as an official document of the WTC Health Program. Thomas R. Frieden, M.D., M.P.H., Director, CDC, and Administrator, ATSDR, approved this document for publication on August 24, 2016.

C. Petition 013

On April 4, 2016, the Administrator received a petition from a responder in the WTC Health Program to add "relapsing remitting multiple sclerosis (autoimmune)" to the List (Petition 013).[2] Because the petitioner identified the requested health condition as "the autoimmune disease of multiple sclerosis" in the petition narrative and used a study of autoimmune diseases among WTC responders to provide the medical basis for the petition,[3] the Administrator determined that the petitioned health condition is "autoimmune diseases, including multiple sclerosis."

This is the fifth petition to the Administrator requesting the addition of autoimmune diseases, including various subtypes, to the List; each of the first four autoimmune disease petitions were denied due to insufficient evidence, as described in respective **Federal Register** notices (FRNs).[4] The medical basis for a potential addition to the List may be demonstrated by reference to a peer-reviewed, published, epidemiologic study about the health condition among 9/11-exposed populations or to clinical case reports of health conditions in WTC responders or survivors.[5] In accordance with WTC Health Program policy, the Science Team reviews references for relevance, and relevant studies are further reviewed for quality and quantity.[6] The current petition, Petition 013, presented five references to support the request to add "relapsing remitting multiple sclerosis (autoimmune)" to the List.

Petition 013 references 1, 2, and 4 are links to the same newspaper article announcing the online publication of a study published in 2015.[7] Petition 013 reference 3 is a different newspaper article announcing the online publication of the same study.[8] These four references identify a 2015 study by Webber *et al.*, a peer-reviewed, published epidemiologic study of autoimmune diseases among 9/11-exposed responders and survivors, titled "Nested Case-Control Study of Selected Systemic Autoimmune Diseases in World Trade Center Rescue/Recovery Workers." [9] The 2015 Webber *et al.* study has already been evaluated by the Administrator in consideration of the other four autoimmune disease petitions, and is discussed below.

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[1] Title XXXIII of the PHS Act is codified at 42 U.S.C. 300mm to 300mm-61. Those portions of the Zadroga Act found in Titles II and III of Public Law 111–347 do not pertain to the WTC Health Program and are codified elsewhere.

[2] *See* Petition 013, WTC Health Program: Petitions Received, *http://www.cdc.gov/wtc/received.html.*

[3] *Id.*

[4] "World Trade Center Health Program; Petition 007—Autoimmune Diseases; Finding of Insufficient Evidence," 80 FR 32333 (June 8, 2015); "World Trade Center Health Program; Petition 008—Autoimmune Diseases; Finding of Insufficient Evidence," 80 FR 39720 (July 10, 2015); "World Trade Center Health Program; Petition 009—Autoimmune Diseases; Finding of Insufficient Evidence," 80 FR 65980 (Oct. 28, 2015); and "World Trade Center Health Program; Petition 011—Autoimmune Diseases; Finding of Insufficient Evidence," 81 FR 24047 (April 25, 2016).

[5] *See* John Howard, Administrator of the WTC Health Program, *Policy and Procedures for Handling Submissions and Petitions to Add a Health Condition to the List of WTC-Related Health Conditions,* May 14, 2014, *http://www.cdc.gov/wtc/pdfs/WTCHPPPPetitionHandlingProcedures14May2014.pdf.*

[6] Information is determined to be relevant if it is presented in peer-reviewed, published, epidemiologic studies of the health condition in 9/11-exposed populations. John Howard, Administrator of the WTC Health Program, *Policy and Procedures for Adding Non-Cancer Conditions to the List of WTC-Related Health Conditions,* May 11, 2016, *http://www.cdc.gov/wtc/pdfs/WTCHP_PP_Adding_NonCancer_Conditions_Revision_11_May_2016.pdf.*

[7] The article, by Amy Norton, is published in reference 1, *New Health Worry for 9/11 Recovery Workers,* HealthDay, March 19, 2015, *in www.cbsnews.com/news/ground-zero-workers-at-risk-of-autoimmune-diseases;* reference 2, *'Ground Zero' Workers at Risk of Autoimmune Diseases: Study,* HealthDay, March 19, 2015, *in http://www.medicinenet.com/script/main/*

The fifth reference provided in Petition 013 does not specifically identify a peer-reviewed, published epidemiologic study of the health condition among 9/11-exposed populations, nor is it a clinical case report of the health condition in WTC responders or survivors. Petition 013 reference 5 is a link to the proceedings of a research meeting conducted by the WTC Health Program in 2014.[10] Two abstracts found in the proceedings address the topic of autoimmune disease among the 9/11 population—"Autoimmune Disease among WTCHR [World Trade Center Health Registry] Registrants: Survey Design and Preliminary Response Rates," and "Post-9/11 Incidence of Systemic Autoimmune Diseases in the FDNY Cohort." The former abstract references an unpublished study; because unpublished studies do not meet the Program's standard for relevance, it was not further considered. The latter abstract describes a study that resulted in the 2015 Webber *et al.* publication discussed in this action and reviewed in full in the April 2016 FRN for Petition 011.

As discussed in the April 2016 FRN finding of insufficient evidence for Petition 011, the 2015 Webber *et al.* study looked at the association between 9/11-related exposures and systemic autoimmune diseases. It was found to be a published, peer-reviewed epidemiologic study of autoimmune diseases in the 9/11 population, and therefore deemed relevant. However, the study was found to exhibit substantial limitations, and it was ultimately concluded not to have the potential to form the basis for a decision on whether to propose adding autoimmune diseases to the List of WTC-Related Health Conditions.[11]

In addition to a review of the studies presented in Petition 013, the WTC Health Program Science Team conducted a review of the scientific literature to determine if the available scientific information has the potential to provide a basis for a decision on whether to add the condition to the List. A previously conducted literature review for autoimmune diseases in response to Petition 007 [12] included all of the autoimmune conditions in the 2015 Webber *et al.* study.[13] In reviewing Petition 013, the Science Team conducted a search to update the results of the previous literature review for all of the types of autoimmune diseases identified in the 2015 Webber *et al.* study, and also conducted a separate search for published, peer-reviewed studies of multiple sclerosis in 9/11 populations.[14]

The Science Team identified five additional references to review for relevance. Of the five additional references, only one study, published in 2016 by Webber *et al.*,[15] was found to be a relevant, published, peer-reviewed study of autoimmune diseases in 9/11-exposed populations. No published, peer-reviewed epidemiologic studies of multiple sclerosis in 9/11-exposed populations were identified in the literature search.

The 2016 Webber *et al.* study is a follow-up to the 2015 Webber *et al.* study discussed above. The 2016 Webber *et al.* study looked at the same cohort of FDNY rescue/recovery workers included in the 2015 study to estimate the incidence of systemic autoimmune diseases in the cohort of FDNY rescue/recovery workers and to compare the FDNY incidence rates to demographically similar men and other published rates. This additional reference, the 2016 Webber *et al.* study, was also identified as relevant in the literature search for Petition 011. As a result, it was further reviewed in the April 2016 FRN for Petition 011 and, along with the 2015 Webber *et al.* study, evaluated for quantity and quality to provide a sufficient basis for deciding whether to propose an addition to the List. Significant limitations, discussed in the April 2016 FRN for Petition 011, led the WTC Health Program to conclude that the 2015 Webber *et al.*, and the 2016 Webber *et al.* study together do not have the potential to provide a basis for a decision on whether to propose adding autoimmune diseases to the List.

All of the references and potential medical bases presented in Petition 013 were previously identified and assessed in Petition 011; as discussed above, these medical bases had significant limitations that prevented them from having the potential to provide a basis to propose adding autoimmune diseases to the List. The Science Team did not find any information during their review of Petition 013 which would alter the assessment of the previously reviewed studies. Moreover, none of the studies identified, including the 2015 and 2016 Webber *et al.* studies, include multiple sclerosis. Thus, no evidence was found specific to multiple sclerosis which would have the potential to form the basis for a decision on whether to propose adding multiple sclerosis to the List.

D. Administrator's Determination on Petition 013

The Administrator has established a policy for evaluating whether to propose the addition of non-cancer health conditions to the List of WTC-Related Health Conditions.[16] Petition 013 requested the addition of "relapsing remitting multiple sclerosis (autoimmune)" to the List. The Administrator previously reviewed the category of "autoimmune diseases," which includes multiple sclerosis, for Petitions 007, 008, 009, and 011. Neither the references included in Petition 013 nor the studies found in the literature review conducted by the Science Team presented evidence of a causal association between 9/11 exposures and

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art.asp?articlekey=187534; and reference 4, *'Ground Zero' Workers at Risk of Autoimmune Diseases: Study,* HealthDay, March 19, 2015, *https://consumer.healthday.com/senior-citizen-information-31/misc-arthritis-news-41/ground-zero-workers-at-risk-of-autoimmune-diseases-study-697581.html.* The study announced in the Norton article is the 2015 study by Webber *et al.*, cited *infra* note 9.

[8] Nancy Walsh, *Autoimmunity Rising in 9/11 Workers,* MedPage Today, March 19, 2015, *http://www.medpagetoday.com/Rheumatology/GeneralRheumatology/50548.*

[9] Mayris Webber, William Moir, Rachel Zeig-Owens, *et al., Nested Case-Control Study of Selected Systemic Autoimmune Diseases in World Trade Center Rescue/Recovery Workers,* Arthritis Rheumatol 2015;67(5):1369–1376.

[10] WTC Health Program, *Research Meeting Proceedings,* June 17–18, 2014, *www.cdc.gov/wtc/proceedings.html.*

[11] 81 FR 24047 at 24049.

[12] *See* 80 FR 32333 at 32334.

[13] Rheumatoid arthritis; spondyloarthritis; inflammatory myositis (polymyositis and dermatomyositis); systemic lupus erythematosus; systemic sclerosis (scleroderma); Sjogren's syndrome; antiphospholipid syndrome; granulomatosis with polyangiitis (Wegener's); and eosinophilic granulomatosis with polyangiitis (Churg-Strauss).

[14] Databases searched include: CINAHL, Embase, NIOSHTIC–2, PsycINFO, PubMed, Scopus, Toxicology Abstracts, and TOXLINE.

[15] Mayris Webber, William Moir, Cynthia Crowson, *et al., Post-September 11, 2001, Incidence of Systemic Autoimmune Diseases in World Trade Center-Exposed Firefighters and Emergency Medical Service Workers,* Mayo Clin Proc 2016;91(1):23–32.

[16] *Supra* note 6.

autoimmune diseases, including multiple sclerosis.

The Administrator initially reviewed the findings presented in the 2015 Webber *et al.* study in response to Petition 007, which also requested the addition of autoimmune diseases, including rheumatoid arthritis and connective tissue diseases. In that review, due to limitations in the 2015 Webber *et al.* study, the Administrator determined that insufficient evidence existed to take any of the following actions: Propose the addition of autoimmune diseases to the List (pursuant to PHS Act, sec. 3312(a)(6)(B)(ii) and 42 CFR 88.17(a)(2)(ii)); publish a determination not to publish a proposed rule in the **Federal Register** (pursuant to PHS Act, sec. 3312(a)(6)(B)(iii) and 42 CFR 88.17(a)(2)(iii)); or request a recommendation from the STAC (pursuant to PHS Act, sec. 3312(a)(6)(B)(i) and 42 CFR 88.17(a)(2)(i)). The 2015 Webber *et al.* study was also presented as evidence to support the Petition 008 request for autoimmune disorders, specifically encephalitis of the brain, the Petition 009 request for autoimmune disorders, including multiple sclerosis, as well as the Petition 011 request for autoimmune disorders, including lupus and rheumatoid arthritis. The 2016 Webber *et al.* study was also presented as evidence to support Petition 011. As concluded in the April 2016 FRN for Petition 011, the two Webber *et al.* studies, taken together, while meeting the relevance threshold of being published, peer-reviewed epidemiologic studies of autoimmune diseases in 9/11-exposed populations, were found to exhibit significant limitations and were thus insufficient to provide a potential basis for a decision on whether to propose adding the requested health conditions to the List.[17]

Finding no additional relevant studies with regard to Petition 013, the Administrator has accordingly determined that insufficient evidence exists to take further action at this time, including either proposing the addition of autoimmune diseases, including multiple sclerosis, to the List (pursuant to PHS Act, sec. 3312(a)(6)(B)(ii) and 42 CFR 88.17(a)(2)(ii)) or publishing a determination not to publish a proposed rule in the **Federal Register** (pursuant to PHS Act, sec. 3312(a)(6)(B)(iii) and 42 CFR 88.17(a)(2)(iii)). The Administrator has also determined that requesting a recommendation from the STAC (pursuant to PHS Act, sec. 3312(a)(6)(B)(i) and 42 CFR 88.17(a)(2)(i)) is unwarranted.

For the reasons discussed above, the request made in Petition 013 to add "relapsing remitting multiple sclerosis (autoimmune)" to the List of WTC-Related Health Conditions is denied.

The Administrator will continue to monitor the scientific literature for publication of the results of the ongoing WTC Health Registry study discussed above (reference 5 in the petition) and any other studies that address autoimmune diseases among 9/11-exposed populations.

John Howard,

Administrator, World Trade Center Health Program and Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.

[FR Doc. 2016–21070 Filed 8–31–16; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 577

[Docket No. NHTSA–2016–0001]

RIN 2127–AL66

Update Means of Providing Recall Notification

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: NHTSA proposes to amend the means of recall notification to owners and purchasers required under the Safety Act to be in an electronic manner, in addition to first class mail, in accordance with Section 30130 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) and Section 24104 of the Fixing America's Surface Transportation Act (FAST Act). Through this proposed rule, NHTSA also seeks to improve the efficacy of recalls by requiring manufacturers to send additional notifications of defects or noncompliance with applicable Federal Motor Vehicle Safety Standards (FMVSS) if a second notification by the manufacturer does not result in an adequate number of motor vehicles or replacement equipment being returned for remedy.

DATES: Comments must be received on or before October 31, 2016. In compliance with the Paperwork Reduction Act, NHTSA is also seeking comment on amendments to an information collection. See the Paperwork Reduction Act section under Rulemaking Analyses and Notices below. Please submit all comments relating to the information collection requirements to NHTSA and to the Office of Management and Budget (OMB) at the address listed in the **ADDRESSES** section on or before October 31, 2016. Comments to OMB are most useful if submitted within 30 days of publication.

ADDRESSES: You may submit comments by any of the following methods:

- *Internet:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590.
- *Hand Delivery or Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Facsimile:* (202) 493–2251.

Regardless of how you submit your comments, please include the docket number of this document.

You may also call the Docket at (202) 366–9322.

Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below.

Privacy Act: Anyone is able to search the electronic form of all comments name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476 at 19477–78).

FOR FURTHER INFORMATION CONTACT: For substantive issues: Jennifer Timian, Office of Defects Investigation, National Highway Traffic Safety Administration, at (202) 366–4000. For legal issues: Justine Casselle, Office of the Chief Counsel, National Highway Traffic Safety Administration, at (202) 366–2992.

SUPPLEMENTARY INFORMATION:

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II. Notification Requirements Before and After MAP–21 and FAST Act
III. NHTSA's Proposed Amendment To Require Notification to Owners and Purchasers by Electronic Means in

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[17] 81 FR 24047 at 24050.

Addition to Notification by First Class Mail
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- B. Suggested Approaches for Electronic Notification
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I. Executive Summary

In the Moving Ahead for Progress in the 21st Century Act (MAP–21), Congress enacted a provision authorizing NHTSA to amend the means by which a manufacturer of a motor vehicle or motor vehicle equipment provides notification to owners, purchasers, and dealers that a vehicle or equipment contains a defect related to motor vehicle safety or does not comply with an applicable federal motor vehicle safety standard (FMVSS). Public Law 112–141, 31310, 126 Stat. 758 (2012). More recently, Section 24104 of the Fixing America's Surface Transportation Act (FAST Act) expressly provided that NHTSA amend 49 CFR part 577 to require notification to owners and purchasers by electronic means in addition to notification by first class mail. Public Law 114–94, 24104 (2015). MAP–21 further authorized NHTSA to improve recall effectiveness by requiring manufacturers to send additional notifications of defects or noncompliance if a second notification by the manufacturer does not result in an adequate number of motor vehicles or equipment being returned for remedy. Public Law 112–141, 31310, 126 Stat. 758 (2012). NHTSA issued an Advanced Notice of Proposed Rulemaking (ANPRM) soliciting comments and supporting information about what NHTSA might require as to electronic notification. *See* 81 FR 4007 (January 25, 2016). We asked questions to facilitate comments from stakeholders on what means of notification, based on their experience, have been most effective in providing information to customers and motivating customers to have safety recall remedies performed. As part of implementing the MAP–21 and FAST Act notification provisions, and after consideration of comments received in response to the ANPRM, we now propose to amend Part 577 to require electronic notification means in addition to first class mail notification to owners and purchasers. This proposed update is not intended to change the scope of the existing rule, other than as specifically described in this notice, but is intended to aid in efficiently and effectively improving safety recall completion rates.

II. Notification Requirements Before and After MAP–21 and FAST Act

49 U.S.C. 30118(c) requires that, in the event of a defect or noncompliance with an applicable FMVSS in a motor vehicle or replacement equipment, manufacturers notify owners, purchasers, and dealers of the vehicle or equipment pursuant to 49 U.S.C. 30119. The manner by which this required notice is given to owners, purchasers, and dealers of vehicles or equipment is governed by 49 U.S.C. 30119(d). Prior to MAP–21, for vehicle recalls, section 30119(d) required notice to be sent by first class mail to the registered owner or, if the registered owner could not be identified, to the most recent purchaser known to the manufacturer. 49 U.S.C. 30119(d)(1)(A)–(B). For recalls of replacement equipment, the statute required notification by first class mail to the most recent purchaser. *Id.* Manufacturers were also required to notify dealers under the statute "by certified mail or quicker means if available." 49 U.S.C. 30119(d)(4).

Section 31310 of MAP–21 amended the notice provisions in 49 U.S.C. 30119(d) to allow the Secretary of Transportation, and by delegation NHTSA's Administrator, the flexibility to determine the manner by which notifications about safety recalls under 49 U.S.C. 30118 must be sent. The amended statutory language authorized the Agency to engage in a rulemaking to permit notification to owners and purchasers of safety recalls by means other than first class mail. In December 2015, Congress enacted the FAST Act expounding on this authority by expressly requiring the Agency to amend 49 CFR 577.7 to include notification to owners and purchasers by electronic means in addition to notification by first class mail.[1]

Section 31310 of MAP–21 aimed to improve the efficacy of recalls not just through updating the means of notification, but also through allowing the Secretary to order additional notifications when necessary. Previously, 49 U.S.C. 30119(e) authorized the Secretary to order a second notification if the Secretary determined that the first notification failed to result in an adequate number of motor vehicles or items of equipment being returned for remedy. The statute was silent, however, as to whether additional notifications beyond a second notification could be required. Section 31310 resolved this question by amending 49 U.S.C. 30119(e), which now, under 49 U.S.C. 30119(e)(2)(A)(i), authorizes the Secretary to order additional notifications if the Secretary determines that a second notification also failed to result in an adequate number of motor vehicles or items of equipment being returned for remedy.

III. NHTSA's Proposed Amendment To Require Notification to Owners and Purchasers by Electronic Means in Addition to Notification by First Class Mail

In the ANPRM, NHTSA invited comments and supporting information on how the Agency can best leverage the new flexibilities given under MAP–21 and the FAST Act to update the required means manufacturers use, whether as a first notification or as a follow-up notification, to successfully notify their customers and urge them toward seeking the free remedies offered. The ANRPM posed several questions about the variety of means and methods manufacturers use to communicate with their customers. Additionally, the ANPRM posed several questions about general owner knowledge and behavior, and asked commenters to present any data on owner behavior in the recall context, including whether owners were responsive to incentives and to the currently prescribed content and layout of the notifications.

A. Public Response to NHTSA's ANPRM

We received 16 comments in response to the ANPRM regarding our proposed update of Part 577. Comments were submitted by Advocates for Highway Safety; Alliance of Automobile Manufacturers (Alliance); American Automotive Leasing Association; IHS Automotive (IHS); FCA US LLC (FCA); General Motors LLC (GM); Global Automakers (Global); NAFA Fleet Management Association (NAFA); National Automobile Dealers Association (NADA); National Independent Automobile Dealers Association (NIADA); Rubber Manufacturers Association (RMA); Pandora Media, Inc. (Pandora); Tire Industry Association (TIA); Truck and Engine Manufacturers Association

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[1] Notification to dealers and distributors is generally required to be sent "by certified mail, verifiable or electronic means such as receipts or logs from electronic mail or satellite distribution system, or other more expeditious and verifiable means." 49 CFR 577.7(c)(2). Dealers and distributors are not notified by first class mail. Therefore, the FAST Act did not require the Agency to change the means of notification for dealers and distributors, and we are not proposing to do so.

(EMA); New Jersey Gasoline, C-Store, and Automotive Association (NJGCA); and Tesla Motors (Tesla).

Many of the comments addressed general owner knowledge and behavior and proposed potential changes to the specific information provided to owners and the layout of the notifications. Many also proposed that NHTSA should conduct studies on these matters. Although the comments were insightful, NHTSA is not proposing additional or changed requirements as to the specific content and layout of notifications at this time. This NPRM is limited to updating the means of notification by requiring electronic notification.

B. Suggested Approaches for Electronic Notification

Most commenters generally supported the use of electronic means and provided suggestions on which types would be best suited for recall notifications. Advocates for Highway Safety stated its belief that email and text message notification should be required, as both methods allow for delivery receipt. It also suggested that newspaper, radio, television, internet, and social media be required methods of notification. Finally, it suggested that manufacturers use direct-to-vehicle communications to notify owners.

IHS suggested that social media, digital radio broadcasts, and connected car applications are "future looking applications of reaching audiences who may not respond to direct mail or even email notices." IHS further commented that some manufacturers use a method called Voice Broadcast which is a "notice in advance of the mailing or other communication to alert the consumer to the forthcoming first class mail communication."

The Alliance recommended that the Agency permit a multi-tiered approach that allows manufacturers to use a variety of electronic communication methods. The Alliance noted that manufacturers already use multiple electronic communication methods such as "robo-calls, agent-assisted calls, Facebook notifications, and other means," especially when recall completion rates are low.

Similar to the Alliance's comments, GM suggested that any changes to Part 577 be flexible, allowing for new technologies as they arise, and further commented that the demographics of the vehicle and the particular recall issue must be better understood as they each play a key role in recall completion rates. GM noted that it has used robo-calls, live calls, in-vehicle calls, and social media to reach out to its owners. The company found social media effective for the purpose of raising awareness, but could not tie it to significant gains in recall completion.

Tesla provided a contextual example of successful electronic notifications used in a recent recall. As Tesla has every Tesla customer's email address, email notifications were sent to every customer two weeks before the physical mailings were ready to be mailed. Thirty percent of Tesla customers had their vehicle remedied by the time the physical mailings were sent via first class mail. Tesla agrees that electronic notification is instantaneous but, though very effective, should be supplemental to the current first class mail standard.

NAFA agreed that electronic notification should be added to the existing first class mail notification.

NIADA suggested that NHTSA move away from a "one-sized fits all approach," and allow notification means such as email, text messaging, internet, OnStar, Blue Link, and other technologies. NIADA commented broadly that it supports strategies that expand how owners are reminded of recalls.

Pandora noted that it worked with GM in the past to notify targeted owners with audio notifications about open recalls. Pandora further shared that its notifications are interactive and can connect a user directly to scheduling or to a manufacturer's Web site.

EMA shared that many fleets and dealers already use a variety of electronic means to connect with owners, such as email, telephone, text messages, direct service database flags, and more.

TIA and NJGCA provided no data as to the effectiveness of first class mail notifications, but opined that "change-of-address" impacts notifications. TIA further commented that tire manufacturers "could use the Internet and social media to notify owners about safety recalls . . ." but tire manufacturers currently only provide first class mail notifications and sometimes a press release.

C. Limitations to Electronic Notification Approaches

Not all commenters supported the use of electronic means during the recall notification process and some commenters highlighted some concerns or limitations with various methods of electronic communications.

Survey results provided by the Alliance and Global included information about the success of various means of notification. Per the results, neither was able to correlate recall completion rates with a specific outreach method. The Alliance and Global noted that there is no ability to connect social media outreach to particular VINs and no guarantee that owners will not treat emails from manufacturers as SPAM or JUNK, even with a valid delivery receipt.

GM also recognized some concerns such as the difficulty of obtaining owner email addresses without paying a third-party and social media privacy policies. GM did not recommend that email notification replace first class mail notification, and noted that delivery rates through first class mail can be as high as 96%.

The American Automotive Leasing Association stated its position that a change to Part 577 should not burden lessors with requirements to send any additional notifications, email or otherwise, to vehicle lessees.

EMA commented that existing first class mail notification is very effective for commercial vehicle recalls because the owner records are typically better kept amongst the commercial vehicle market. Additionally, EMA does not believe social media notifications will be useful for the commercial vehicle market.

D. Privacy Considerations and Impacts of Any Existing Laws

Three (3) commenters, the Alliance, GM, and TIA, commented on specific privacy concerns or existing state and Federal laws that might be impacted by the use of electronic recall communications.

GM noted that the expertise to market via electronic communications is often housed in the manufacturer's marketing department. While a specific legal restriction was not cited, GM did suggest that owner data from state registrations would need housing in a "safe haven" where the manufacturer could only use that data within legal constraints. GM further mentioned that some social media privacy policies restrict the amount of feedback the vehicle manufacturer can obtain and some publishers do not offer any feedback at all. As such, it would be difficult to measure the effectiveness of some social media recall notifications.

The Alliance commented that some forms of social media, like Twitter, restrict the amount of content shared to users. For example, a recall communication containing a summary of the recall, safety risk, available remedy, and contact information would be difficult to transmit given Twitter's 140 character limit restriction. Also, the Alliance recommended an additional study needed to ensure new means of notification do not conflict with the Controlling the Assault of Non-Solicited

Pornography and Marketing Act (CAN–SPAM Act), the Telephone Consumer Protection Act (TCPA), and the Do-Not-Call Implementation Act as amended.

TIA cautioned the Agency in requiring additional personal information to be provided back to the tire manufacturers in order to facilitate electronic recall notifications. TIA noted that 49 CFR part 574 prohibits manufacturers from using registration information for marketing purposes; however, TIA claims tire manufacturers have circumvented this prohibition and TIA worries any additional data that tire retailers must collect (such as customer email addresses) may create a competitive disadvantage to independent tire retailers.

IV. Proposed Changes to Notification Requirements

After considering the relevant comments provided, we propose to amend 49 CFR 577.7 to require notification by electronic means in addition to first class mail every time a recall notification is required. The proposal gives the recalling manufacturer the flexibility to define and determine the electronic means they feel are most effective to employ in an effort to optimize the recalls completion for a particular recall campaign. As many of the commenters noted, there are a wide variety of electronic means currently available for use by manufacturers and some have chosen to use as a supplementary means of notification with varying degrees of success. A flexible approach values the knowledge and experience of the recalling manufacturers concerning what means are most likely to reach and resonate with their owners and motivate them toward taking steps to have their products remedied.

Accordingly, we propose defining "electronic means" to include "electronic mail, text messages, radio or television notifications, vehicle infotainment console messages, over-the-air alerts, social media or targeted online campaigns, phone calls, including automated phone calls, or other real time means." As with any recall communication, the Agency retains the discretion to require other means and additional notifications if the manufacturer's chosen means is impractical, does not feasibly reach all of the purchasers or owners impacted, or the Agency otherwise deems inappropriate. At this time we decline to set any additional and mandatory notification means beyond the electronic means identified here.

The Agency recognizes that the proposed definition of "electronic means" is broad and that certain proposed means of electronic notification may be difficult to achieve in practice given the current content requirements of 49 CFR part 577. We propose a broad definition of "electronic means" now in anticipation that we may amend the content requirements of 49 CFR part 577 in the future. However, at this time, we propose to require that any electronic notification issued under this paragraph comply with the content requirements of 49 CFR part 577, or provide a hyperlink to a notice that complies with the content requirements of 49 CFR part 577, or a representative copy of such a notice along with instructions on how a vehicle owner can determine whether his or her vehicle is impacted.

Vehicle safety recalls require inclusion of the owner's VIN in the part 577 notification letter. We recognize that is not always feasible through social media or other electronic means where a notice may be viewed by more than one individual. In that case, a representative copy of a notice may be used, so long as additional information is given as to how an owner could readily determine whether his or her vehicle or equipment is impacted by the recall. For those manufacturers that are currently required to support NHTSA's VIN search tool and offer VIN-based safety recall search tools on their Web sites pursuant to existing regulation, the communication must also direct viewers to NHTSA's VIN search tool[1] and the manufacturer's search tool.

It must be noted that this proposed rule does not alter a manufacturer's requirements under 49 CFR part 573, nor is an amendment to 49 CFR part 573 required at this time. Manufacturers must continue to comply with 49 CFR 573.6 by filing representative copies of "all notices, bulletins, and other communications that relate directly to the defect or noncompliance and are sent to more than one manufacturer, distributor, dealer or purchaser." Electronic notifications are notices, bulletins, or other communications under 49 CFR 573.6. Currently, manufacturers provide representative copies to NHTSA via the online Recalls Portal. Upon the publishing of the Final Rule, manufacturers will continue to do so, as the online Recalls Portal will be updated to allow for manufacturers to select their choice among one of the allowable electronic means. Representative copies are required even if a manufacturer chooses to issue Part 577-compliant notices via electronic means such as radio or television notifications, vehicle infotainment console messages, over-the-air alerts, telephone calls, or other allowable means. In practice, manufacturers can submit to the online Recalls Portal copies of electronic messages (emails), screenshots of messages or alerts, and scripts of calls or ads, for example.

We also note that 49 CFR 577.7(c)(2) concerning notifications to dealers and distributers already contains language providing for notification "by certified mail, verifiable electronic means such as receipts or logs from electronic mail or satellite distribution system, or other more expeditious and verifiable means. . . ." At this time, the Agency does not believe a change to the required means of notification to dealers and distributers is warranted.

In response to concerns expressed about whether the proposed electronic notification requirement will conflict with existing federal laws aimed at protecting consumers and businesses from unwanted electronic messages, the Agency's position is that it will not. Recall notifications are safety-related informational messages. The proposed changes in this rulemaking are not intended to exempt from federal laws, including but not limited to the CAN–SPAM Act, the TCPA, and the Do-Not-Call Implementation Act, conduct that is unlawful under those laws.

We request comments on this proposal and any alternative approaches that allow for numerous electronic notification means, but at the same time ensure that the notification communicates the long-standing and essential components of traditional Part 577 first class mailings. That is, that the manufacturer had decided there is a safety defect or failure to meet minimum safety standards; that the safety defect or failure to comply increases the risk of a motor vehicle crash, injury and/or fire; a safety recall is being conducted; and a remedy will be provided at no cost. More specifically, we request comment on our proposed approach to permit discretion in the means chosen to meet the requirement of electronic notification. In addition to our request for comments on our proposed definition of "electronic means," we request comment on whether the terms "social media or targeted online campaigns" need further definition, given that such proposed electronic notification means are fundamentally different from other means targeted at individual owners. Finally, we request comment on our proposal to require inclusion of directions to NHTSA's VIN search tool and the manufacturer's search tool, for social media campaigns, for example, which we believe will allow owners to readily ascertain the application of the safety recall to vehicles and equipment they own.

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[1] NHTSA's VIN search tool is available at *https://vinrcl.safercar.gov/vin/*.

V. Proposed Changes to Follow-Up Requirements

As mentioned above, MAP–21 authorized NHTSA to require manufacturers to send additional notifications of defects or noncompliance if a second notification by the manufacturer does not result in an adequate number of motor vehicles or equipment being returned for remedy. Public Law 112–141, § 31310, 126 Stat. 758 (2012). Although 49 CFR 577.10 currently provides that the Administrator "may authorize the use of other media besides first-class mail for a follow-up notification," we propose a minor revision to this section for clarity and consistency purposes. Still subject to the Administrator's approval, we propose clarifying that a follow-up notification shall be sent by first class mail and by electronic means in the same manners we propose be included in 49 CFR 577.7 above. We request comment on this proposed clarification.

VI. Rulemaking Analyses and Notices

Executive Orders 12866 and 13563, and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under Executive Order 12866 or Executive Order 13563. NHTSA has considered the impact of this NPRM under the Department of Transportation's regulatory policies and procedures. This action would amend Part 577 to update the procedures by which manufacturers notify owners, purchasers, and dealers of defects and noncompliances in an effort to improve vehicle safety recall completion rates. The rulemaking imposes no new significant burdens on the manufacturers and does not create significant related costs that would require the development of a full cost/benefit evaluation. Since this action also does not change the number of those organizations or individuals subject to this requirement, the impacts of the rule are limited. Therefore, this rulemaking has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures and the policies of the Office of Management and Budget.

Regulatory Flexibility Act

We have also considered the impact of this notice under the Regulatory Flexibility Act. I certify that this rule is not expected to have a significant economic impact on a substantial number of small entities. The following provides the factual basis for this certification under 5 U.S.C. 605(b). The amendments almost entirely affect manufacturers of motor vehicles and motor vehicle equipment.

SBA uses size standards based on the North American Industry Classification System ("NAICS"), Subsector 336—Transportation Equipment Manufacturing, which provides a small business size standard of 1,000 employees or fewer for automobile manufacturing businesses. Other motor vehicle-related industries have lower size requirements that range between 100 and 750 employees. For example, according to the SBA coding system, businesses that manufacture truck trailers, travel trailers/campers, and vehicular lighting equipment, qualify as small businesses if they employ 500 or fewer employees. Small businesses are subject to the notification requirements and therefore may be affected by the proposed changes in this NPRM. However, the impacts of this rulemaking on small businesses are minimal, as this proposed procedural update does not impose a significant additional burden or additional costs.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rulemaking would not have a $100 million effect, no Unfunded Mandates assessment will be prepared.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, et. seq.), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. In compliance with the PRA, we announce that NHTSA is seeking comment on a revision of a currently approved collection.

Agency: National Highway Traffic Safety Administration (NHTSA).

Title: 49 CFR part 577, Defect and Noncompliance Notification.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2127–0004.

Form Number: The collection of this information uses no standard form.

Requested Expiration Date of Approval: Three (3) years from the date of approval.

Summary of the Collection of Information

This approved information collection is associated with 49 CFR Part 573 and portions of 49 CFR part 577, and consists of important safety recall information that motor vehicle and motor vehicle equipment manufacturers must submit.

Description of the Need for the Information and Use of the Information

The information is needed for NHTSA to better serve the public by effectively monitoring safety recalls and by providing timely recall information to consumers regarding specific vehicles. Owners and purchasers will benefit from the increased ease with which they can ascertain information on recalled vehicles. The public at large will benefit from a decrease in the numbers of defect or noncompliant vehicles on public roads and, concurrently, a decrease in the incident or risk of incident of injuries and fatalities associated with those defects and failures to comply, that we expect to result from increased recalls completion rates stemming from the public's enhanced ability to quickly locate important safety recall information on vehicles they drive.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)

Should this proposal be made final, we expect that all manufacturers regulated by NHTSA and currently subject to the defect and noncompliance reporting and notification requirements will continue to be subject to the updated requirements.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information

Today's proposed rule requiring manufacturers to notify their affected owners by electronic means in addition to first class mail notifications will add some paperwork burden to the industry. However, electronic methods such as email, social media accounts, over-the-air communications and others are existing technologies and largely free of charge.

Given the recent increase in the number of safety recalls the Agency administers yearly and the volume of products included in those recalls, this information collection burden hour total is increased from previous estimates. The Agency anticipates that each recall will require 4 burden hours for the manufacturer to plan its strategy for meeting the electronic notification requirement and executing that strategy. With an estimated 854 recalls filed each year, we estimate a new 3,416 burden hours (854 recalls x 4 hours) for this new requirement.

Comments are invited on:

- Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility.
- Whether the Department's estimate for the burden of the information collection is accurate.
- Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication. Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attn: NHTSA Desk Officer. PRA comments are due within 30 days following publication of this document in the **Federal Register**.

The Agency recognizes that the collection of information contained in today's proposed rule may be subject to revision in response to public comments.

Regulatory Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

List of Subjects in 49 CFR Part 577

Administrative practice and procedure, Motor vehicles, Motor vehicle safety, Reporting and recordkeeping requirements.

Proposed Regulatory Text

For the reasons set forth in the preamble, NHTSA proposes to amend 49 CFR part 577 as follows:

PART 577—DEFECT AND NONCOMPLIANCE NOTIFICATION

■ 1. The authority citation for part 577 continues to read as follows:

Authority: 49 U.S.C. 30102, 30103, 30116–121, 30166; delegation of authority at 49 CFR 1.95 and 49 CFR 501.8.

■ 2. Amend § 577.7 by revising paragraph (a)(2)(i) through (iv) and adding paragraphs (a)(2)(v) and (vi) to read as follows:

§ 577.7 Time and manner of notification.

(a) * * *

(2) * * *

(i) In the case of a notification required to be sent by a motor vehicle manufacturer, by first class mail and by electronic means to each person who is registered under State law as the owner of the vehicle and whose name and address are reasonably ascertainable by the manufacturer through State records or other sources available to him. If the owner cannot be reasonably ascertained, the manufacturer shall notify the most recent purchaser known to the manufacturer. The manufacturer shall also provide notification to each lessee of a leased motor vehicle that is covered by an agreement between the manufacturer and a lessor under which the manufacturer is to notify lessees directly of safety-related defects and noncompliances.

(ii) In the case of a notification required to be sent by a replacement equipment manufacturer—

(A) By first class mail and by electronic means to the most recent purchaser known to the manufacturer, and

(B) (Except in the case of a tire) if decided by the Administrator to be required for motor vehicle safety, by public notice in such manner as the Administrator may require after consultation with the manufacturer.

(iii) In the case of a manufacturer required to provide notification concerning any defective or noncomplying tire, by first class or certified mail and by electronic means.

(iv) In the case of a notification to be sent by a lessor to a lessee of a leased motor vehicle, by first class mail and by electronic means to the most recent lessee known to the lessor. Such notification shall be sent within ten days of the lessor's receipt of the notification from the vehicle manufacturer.

(v) Notification by electronic means required by paragraph (a)(2) of this section is defined to include notification by electronic mail, text messages, radio or television notifications, vehicle infotainment console messages, over-the-air alerts, social media or targeted online campaigns, telephone calls, automated or otherwise, or other real time means. No matter the means identified by the manufacturer, the Administrator retains the discretion to require other means and additional notifications if the manufacturer's chosen means is impractical, does not feasibly reach all of the purchasers or owners impacted, or is otherwise deemed inappropriate. Any electronic notification issued under this paragraph must either comply with the content requirements of § 577.5(b) through (g) of this part, provide an internet hyperlink to a notice that complies with the content requirements of § 577.5(b) through (g), or provide an internet hyperlink to a representative copy of a notice that complies with the content requirements of § 577.5(b) through (g) along with instructions on how the purchaser or owner can determine whether his or her vehicle or equipment is impacted.

(vi) In the case of a notification by electronic means that may be viewed by more than one individual, manufacturers who are currently required to support NHTSA's VIN search tool and offer VIN-based safety recall search tools pursuant to existing regulation under this chapter, such notification must direct viewer to NHTSA's VIN search tool and the manufacturer's search tool.

* * * * *

■ 3. Amend § 577.10 by revising paragraph (g) to read as follows:

§ 577.10 Follow-up notification.

* * * * *

(g) A follow-up notification shall be sent by first class mail and by electronic means pursuant to § 577.7(a)(2) of this part. Notwithstanding any other provision of this part, the Administrator may authorize the use of other media besides first class mail and electronic means for a follow-up notification.

* * * * *

Issued in Washington, DC, on August 25, 2016 under authority delegated pursuant to 49 CFR 1.95.

Gregory K. Rea,

Associate Administrator for Enforcement.

[FR Doc. 2016–20926 Filed 8–31–16; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 81, No. 170
Thursday, September 1, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0045]

Environmental Impact Statement; Grasshopper and Mormon Cricket Suppression Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service plans to prepare an environmental impact statement to analyze the effects of a program to suppress populations of grasshoppers and Mormon cricket from 17 States in the western United States. This notice identifies potential issues and alternatives that will be studied in the environmental impact statement, and requests public comments to further delineate the scope of the alternatives and environmental impacts and issues.

DATES: We will consider all comments that we receive on or before October 17, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0045.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2016–0045, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0045* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For questions related to the Grasshopper and Mormon Cricket Suppression Program, contact Mr. William D. Wesela, APHIS National Grasshopper and Mormon Cricket Program Manager, *William.D.Wesela@aphis.usda.gov,* (301) 851–2229. For questions related to the environmental impact statement, contact Dr. Jim Warren, Environmental Protection Specialist, Environmental and Risk Analysis Services, PPD, APHIS, 4700 River Road, Unit 149, Riverdale, MD 20737; *Jim.E.Warren@aphis.usda.gov;* (202) 316–3216.

SUPPLEMENTARY INFORMATION: About 400 species of grasshoppers inhabit the 17 western States (Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming) involved in the Animal and Plant Health Inspection Service's (APHIS') cooperative grasshopper suppression program, but only a small percentage are considered pest species. APHIS assists Federal land management agencies and State, county, and local governments during rangeland pest outbreaks. Grasshoppers and Mormon crickets (hereafter referred to collectively as grasshoppers) feed on and damage grasses and other vegetation, including some adjacent crops.

Rangeland in the western United States is a valuable agricultural resource for livestock production. Other economic benefits include energy production sites and recreation uses. Rangelands also provide numerous ecosystem benefits, such as protection of water and soil quality, nutrient cycling and serve as habitat for a variety of wildlife. Grasshoppers are natural components of this ecosystem; however, their populations can reach outbreak levels and cause serious economic losses to rangeland forage, especially when accompanied by a drought. A rapid and effective response is required when a grasshopper outbreak develops and threatens rangeland forage.

Currently, APHIS conducts surveys for grasshopper populations on rangeland in the western United States, provides technical assistance on grasshopper management to land owners/managers, and cooperatively suppresses grasshoppers when direct intervention is requested by a Federal land management agency or a State agriculture department and deemed necessary.

Under the provisions of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C 4321 *et seq.*), Federal agencies must examine the potential environmental effects of the proposed Federal actions and alternatives. As such, we intend to prepare an environmental impact statement (EIS) to examine the environmental effects of control alternatives available to the agency, including a no action alternative. The EIS will be used for planning and decisionmaking and to inform the public about the environmental effects of APHIS' grasshopper suppression activities. It will also provide an overview of APHIS activities to which we can tier site-specific analyses and environmental assessments if new grasshopper infestations are discovered in the affected States.

We are requesting public comment to help us identify or confirm potential alternatives and environmental issues that should be examined in the EIS, as well as comments that identify other issues that should be examined in the EIS.

The EIS will be prepared in accordance with: (1) NEPA, (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

We have identified three alternatives for further examination in the EIS:

No action. Under this alternative, APHIS would maintain the program that was described in the 2002 EIS and Record of Decision. APHIS may opt to provide technical assistance, but any suppression program would be implemented by a Federal land management agency, a State agriculture department, a local government, or a private group or individual.

No suppression program. Under this alternative, APHIS would not fund or participate in any program to suppress grasshopper infestations. APHIS may opt to provide technical assistance, but any suppression program would be implemented by a Federal land management agency, a State agriculture department, a local government, or a private group or individual.

Insecticide applications at conventional rates or reduced agent area treatments. This alternative would update the information and technologies that were analyzed in the 2002 EIS. The insecticides available for use by APHIS include the U.S. Environmental Protection Agency-registered chemicals carbaryl, diflubenzuron, chlorantraniliprole, and malathion. Carbaryl and malathion are cholinesterase inhibitors which effects the nervous system. Diflubenzuron is an insect growth regulator. Chlorantraniliprole affects the nervous system by activating ryanodine receptors in insects. Only one insecticide would be used at a time, and would be applied at a rate that is normally or conventionally used for grasshopper suppression treatments, or could be applied as a reduced agent area treatment (RAATs). The RAATs strategy uses a reduced rate of insecticide from conventional levels by alternating treatment swaths in a spray block, reduced application rates, or both. The RAATs strategy suppresses grasshoppers within treated swaths, while conserving grasshopper predators and parasites in swaths that are not treated. An adaptive approach of either conventional rates or RAATs will allow the program to make site-specific suppression applications using a range of application rates to ensure adequate suppression.

We have identified the following potential environmental impacts or issues for further examination in the EIS:

- Effects on wildlife, including consideration of migratory bird species and changes in native wildlife habitat and populations, and federally listed endangered and threatened species.
- Effects on soil, air, and water quality.
- Effects on human health and safety.
- Effects on cultural and historic resources.
- Effects on economic resources.

All comments on this notice will be carefully considered in developing the final scope of the EIS. Upon completion of the draft EIS, a notice announcing its availability and an invitation to comment on it will be published in the **Federal Register**.

Done in Washington, DC, this 26th day of August 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–21082 Filed 8–31–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Glenn and Colusa County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Glenn and Colusa County Resource Advisory Committee (RAC) will meet in Willows, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/main/pts/specialprojects/racweb.*

DATES: The meeting will be held on September 19, 2016, from 1:00 p.m. to 4:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the USDA Mendocino National Forest, Snow Mountain Conference Room, 825 North Humboldt Avenue, Willows, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the USDA Mendocino National Forest, Grindstone Ranger District, 825 North Humboldt Avenue, Willows, California. Please call ahead at 530–934–3316 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Zachary Rich, Committee Coordinator by phone at 530–934–1259, or via email at *zrich@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss current or completed projects and present new projects for review.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by September 12, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Zachary Rich, Committee Coordinator, USDA Mendocino National Forest, Grindstone Ranger District, 825 North Humboldt Avenue, Willows, California 95988; or by email to *zrich@fs.fed.us,* or via facsimile to 530–934–7384.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: August 25, 2016.

Eduardo Olmedo,

District Ranger.

[FR Doc. 2016–21060 Filed 8–31–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tehama County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tehama County Resource Advisory Committee (RAC) will meet in Red Bluff, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with title II of

the Act. RAC information, can be found at the following Web site: *http://www.fs.usda.gov/main/pts/specialprojects/racweb.*

DATES: The meeting will be held on September 29, 2016, from 9:00 a.m. to 12:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Tehama County Farm Bureau, 275 Sale Lane, Red Bluff, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the USDA Mendocino National Forest, Grindstone Ranger District, 825 North Humboldt Avenue, Willows, California. Please call ahead at 530–934–3316 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Randy Jero, Committee Coordinator by phone at 530–934–3316, or via email at *rjero@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss current or completed projects and present new projects for review.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by September 23, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Randy Jero, Committee Coordinator, USDA Mendocino National Forest, Grindstone Ranger District, 825 North Humboldt Avenue, Willows, California 95988; or by email to *rjero@fs.fed.us,* or via facsimile to 530–934–7384.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: August 25, 2016.

Eduardo Olmedo,

District Ranger.

[FR Doc. 2016–21065 Filed 8–31–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–56–2016]

Foreign-Trade Zone (FTZ) 279—Terrebonne Parish, Louisiana; Notification of Proposed Production Activity; Gulf Island Shipyards, LLC (Shipbuilding); Houma, Louisiana

Gulf Island Shipyards, LLC (Gulf Island Shipyards) submitted a notification of proposed production activity to the FTZ Board for its facilities in Houma, Louisiana within FTZ 279. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on August 19, 2016.

The request indicates that a separate application for site designation at the Gulf Island Shipyards facilities will be submitted pursuant to Section 400.38 of the Board's regulations. The Gulf Island Shipyards facilities are used for the repair, maintenance and fabrication of tugs, barges, dredges, offshore drilling rigs and other vessels. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Gulf Island Shipyards from customs duty payments on the foreign-status components used in export production. On its domestic sales, Gulf Island Shipyards would be able to choose the duty rate during customs entry procedures that applies to: Cargo vessels; passenger vessels; tankers; refrigerated vessels; offshore service vessels; fishing vessels; tugs and pusher crafts; dredgers; offshore drilling or production platforms; floating docks and similar structures; lifeboats and military vessels; and, hulls (duty-free) for the foreign-status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Floor-bonding coats; epoxy resins; fittings; plastic floor coverings; boxes and crates; handles and knobs; gaskets; life jackets; insulation; plastic tiles; tableware; pipe fittings; flanges; metal elbows; metal sleeves; marine doors; steel wall panels; anchors; small steel drums; steel metadisc fasteners; steel washers; steel fasteners; ladders and raceways; wires; copper fittings; nuts; bolts; washers; screws; nickel fittings; aluminum rods, profiles and fittings; hangers; forgings; lead pipes and pipe fittings; zinc tubes, pipes and fittings; tin tubes, pipes and fittings; metal fittings; flexible tubing; boilers; steam turbines; turbine parts; marine inboard engines; diesel engines and parts; turbine jets; gas turbines; hydrojet engines; fuel oil pumps; cooling pumps; ballast pumps; macerator pumps; hydraulic pumps; bilge, sump and dredge pumps; jet pumps; air and liquid compressors; turbochargers; pumps and compressors; air conditioner units; HVAC units; refrigeration units; fire dampers; heat exchangers; cooling equipment; liquid purifying equipment; fuel filters; air filters; sprayers; winches; derricks; elevators; drilling risers; deck machinery; trash compactors; pressure valves; scupper valves; check valves; relief valves; gate valves; roller bearings; Z-drives; transmission shafts; housed bearings; gearboxes; pulleys; flywheels; clutches; universal joints; acoustic baffles; propellers and blades; AC and DC electric motors up to 746W; electric motors and generators (>750W); single-phase AC electric motors and generators; multi-phase AC electric motors and generators; AC motors and generators (750W–150kW); AC generators; generator sets; electrical ballasts; transformers; rectifiers; power supplies; inductors; starters; heaters; television reception equipment; radar equipment; radio remote control equipment; antennas; tuners; signaling devices; motor starters; switches; connectors; electrical terminals; switching equipment; electrical panels; arc lamps; signal generators; displays; coaxial cables; ignition wiring sets; electric conductors; mirrors; optical instruments; depth-sounding apparatus; micrometers; calipers; thermostats; voltage regulators; marine chronometers; helm chairs; table brackets and plates; seats and accessories; furniture; seat parts; and, searchlights (duty rate ranges from duty-free to 8.5%). The production activity under FTZ procedures would be subject to the "standard shipyard restriction" applicable to foreign origin steel mill products, which requires that Gulf Island Shipyards pay all applicable duties on such items.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is October 11, 2016.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: August 25, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–20995 Filed 8–31–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–038]

Antidumping Duty Investigation of Certain Amorphous Silica Fabric From the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value, Preliminary Affirmative Determination of Critical Circumstances, and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain amorphous silica fabric (silica fabric) from the People's Republic of China (the PRC) is being, or is likely to be, sold in the United States at less-than-fair value (LTFV). The period of investigation is July 1, 2015, through December 31, 2015. The estimated weighted-average dumping margins are shown in the "Preliminary Determination" section of this notice. We invite interested parties to comment on this preliminary determination.

DATES: Effective September 1, 2016.

FOR FURTHER INFORMATION CONTACT: Scott Hoefke or Fred Baker, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4947 and (202) 482–2924, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this LTFV investigation on February 23, 2016.[1] For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum that is dated concurrently with this determination and is hereby adopted by this notice.[2] A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and electronic version of Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is silica fabric from the PRC. For a complete description of the scope of this investigation, *see* Appendix II.

Scope Comments

In accordance with the preamble to the Department's regulations,[3] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* "scope").[4] We received comments from one interested party on March 13, 2016. However, since these comments were untimely filed, we rejected them from the record. We received no other comments on scope since publication of the *Initiation Notice,* other than rebuttal comments filed by petitioner on March 17, 2016, with respect to the untimely filed March 7, 2016, comments. The Department is preliminarily not modifying the scope language as it appeared in the *Initiation Notice.*

Methodology

The Department conducted this investigation in accordance with section 731 of the Tariff Act of 1930, as amended (the Act). We calculated constructed export prices in accordance with section 772 of the Act. Because the PRC is a non-market economy within the meaning of section 771(18) of the Act, we calculated normal value (NV) in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Affirmative Preliminary Determination of Critical Circumstances

On July 13, 2016, Petitioner filed a timely critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206, alleging that critical circumstances exist with respect to imports of silica fabric from the PRC.[5] We preliminarily determine that critical circumstances exist for ACIT (Pinghu) Inc. (ACIT), Nanjing Tianyuan Fiberglass Material Co., Ltd. (Nanjing Tianyuan), and the PRC-wide entity. For a full description of the methodology and results of our analysis, please see the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice,* the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation.[6] Policy Bulletin 05.1 describes this practice.[7]

Preliminary Determination

The preliminary weighted-average antidumping margins are as follows:

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[1] *See Certain Amorphous Silica Fabric From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 81 FR 8913 (February 23, 2016) (*Initiation Notice*).

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance "Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Amorphous Silica Fabric From the People's Republic of China," (Preliminary Decision Memorandum) dated concurrently with this notice.

[3] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997).

[4] *See Initiation Notice,* 81 FR at 8913.

[5] *See* Letter from Auburn Manufacturing, Inc. (Petitioner), dated July 13, 2016.

[6] *See Initiation Notice,* 81 FR at 8917.

[7] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on the Department's Web site at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

Exporter	Producer	Weighted-average margin (%)
ACIT (Pinghu) Inc	ACIT (Pinghu) Inc	162.47
Nanjing Tianyuan Fiberglass Material Co., Ltd	Nanjing Tianyuan Fiberglass Material Co., Ltd	162.47
PRC-Wide Rate		162.47

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of silica fabric from the PRC as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of investigation was published. As described above, we preliminarily find that critical circumstances exist for imports produced or exported by all exporters of subject merchandise from the PRC. Therefore, in accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice. Accordingly, for ACIT, Nanjing Tianyuan, and the PRC-wide entity, in accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice. We will also instruct CBP, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), to require a cash deposit equal to the margins indicated in the chart above.[8] As described in the Preliminary Decision Memorandum, in this preliminary determination, no adjustments pursuant to section 777A(f) and 772(c)(1)(C) of the Act are being made for cash deposit purposes. The suspension of liquidation will remain in effect until further notice.

Disclosure and Public Comment

We will disclose to interested parties the calculations performed in this proceeding within five days of the date of announcement of this preliminary determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this proceeding.[9] Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[10]

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[11] This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the **Federal Register**.[12] Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.[13] Electronically-filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.[14]

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination by the Department, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination by the Department, a request for such postponement is made by the petitioner. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On August 8, 2016, pursuant to 19 CFR 351.210(b)(2)(ii), Petitioner and ACIT requested that the Department postpone its final determination. On August 9, 2016, Nanjing Tianyuan also requested that the Department postpone its final determination. In their respective requests for postponement, ACIT and Nanjing Tianyuan also requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[15]

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[8] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[9] *See* 19 CFR 351.309(b)(2)(c)(i).

[10] *See* 19 CFR 351.309, *see also* 19 CFR 351.303 (for general filing requirements).

[11] *See* 19 CFR 351.309(c)(2) and (d)(2).

[12] *See* 19 CFR 351.310(c).

[13] *See* 19 CFR 351.303(b)(2)(i).

[14] *See* 19 CFR 351.303(b)(1).

[15] *See* 19 CFR 351.210(e).

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the International Trade Commission (ITC) of our preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(I) of the Act and 19 CFR 351.205(c).

Dated: August 24, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Preliminary Determination of Critical Circumstances
V. Scope of the Investigation
VI. Discussion of the Methodology
  A. Non-Market Economy Country
  B. Surrogate Country and Surrogate Value Comments
  C. Separate Rates
  D. The PRC-wide Entity
  E. Application of Facts Available and Adverse Inferences
  F. Date of Sale
  G. Comparisons to Fair Value
VII. Currency Conversion
VIII. Adjustment Under Section 777A(F) of the Act
IX. Adjustment for Countervailable Subsidies
X. Disclosure and Public Comment
XI. Verification
XII. Conclusion

Appendix II—Scope of the Investigation

The product covered by this investigation is woven (whether from yarns or rovings) industrial grade amorphous silica fabric, which contains a minimum of 90 percent silica (SiO2) by nominal weight, and a nominal width in excess of 8 inches. The investigation covers industrial grade amorphous silica fabric regardless of other materials contained in the fabric, regardless of whether in roll form or cut-to-length, regardless of weight, width (except as noted above), or length. The investigation covers industrial grade amorphous silica fabric regardless of whether the product is approved by a standards testing body (such as being Factory Mutual (FM) Approved), or regardless of whether it meets any governmental specification.

Industrial grade amorphous silica fabric may be produced in various colors. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is colored. Industrial grade amorphous silica fabric may be coated or treated with materials that include, but are not limited to, oils, vermiculite, acrylic latex compound, silicone, aluminized polyester (Mylar®) film, pressure-sensitive adhesive, or other coatings and treatments. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is coated or treated, and regardless of coating or treatment weight as a percentage of total product weight. Industrial grade amorphous silica fabric may be heat-cleaned. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is heat-cleaned.

Industrial grade amorphous silica fabric may be imported in rolls or may be cut-to-length and then further fabricated to make welding curtains, welding blankets, welding pads, fire blankets, fire pads, or fire screens. Regardless of the name, all industrial grade amorphous silica fabric that has been further cut-to-length or cut-to-width or further finished by finishing the edges and/or adding grommets, is included within the scope of this investigation.

Subject merchandise also includes (1) any industrial grade amorphous silica fabric that has been converted into industrial grade amorphous silica fabric in China from fiberglass cloth produced in a third country; and (2) any industrial grade amorphous silica fabric that has been further processed in a third country prior to export to the United States, including but not limited to treating, coating, slitting, cutting to length, cutting to width, finishing the edges, adding grommets, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope industrial grade amorphous silica fabric.

Excluded from the scope of the investigation is amorphous silica fabric that is subjected to controlled shrinkage, which is also called "pre-shrunk" or "aerospace grade" amorphous silica fabric. In order to be excluded as a pre-shrunk or aerospace grade amorphous silica fabric, the amorphous silica fabric must meet the following exclusion criteria: (l) The amorphous silica fabric must contain a minimum of 98 percent silica (SiO2) by nominal weight; (2) the amorphous silica fabric must have an areal shrinkage of 4 percent or less; (3) the amorphous silica fabric must contain no coatings or treatments; and (4) the amorphous silica fabric must be white in color. For purposes of this scope, "areal shrinkage" refers to the extent to which a specimen of amorphous silica fabric shrinks while subjected to heating at 1800 degrees F for 30 minutes.[16]

Also excluded from the scope are amorphous silica fabric rope and tubing (or sleeving). Amorphous silica fabric rope is a knitted or braided product made from amorphous silica yarns. Silica tubing (or sleeving) is braided into a hollow sleeve from amorphous silica yarns.

The subject imports are normally classified in subheadings 7019.59.4021, 7019.59.4096, 7019.59.9021, and 7019.59.9096 of the Harmonized Tariff Schedule of the United States (HTSUS), but may also enter under HTSUS subheadings 7019.40.4030, 7019.40.4060, 7019.40.9030, 7019.40.9060, 7019.51.9010, 7019.51.9090, 7019.52.9010, 7019.52.9021, 7019.52.9096 and 7019.90.1000. HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

[FR Doc. 2016–21095 Filed 8–31–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year ("Sunset") Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating the five-year review ("Sunset Review") of the antidumping and countervailing duty ("AD/CVD") order(s) listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same order(s).

DATES: *Effective Date:* September 1, 2016.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final*

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[16] Areal shrinkage is expressed as the following percentage: ((Fired Area, em2 − Initial Area, cm2)/Initial Area, cm2) × 100 = Areal Shrinkage, %.

Modification, 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating Sunset Reviews of the following antidumping and countervailing duty order(s):

DOC case No.	ITC case No.	Country	Product	Department contact
A–533–806	731–TA–561	India	Sulfanilic Acid (4th Review)	David Goldberger 202–482–4136.
C–533–807	701–TA–318	India	Sulfanilic Acid (4th Review)	David Goldberger 202–482–4136.
A–570–815	731–TA–538	PRC	Sulfanilic Acid (4th Review)	David Goldberger (202) 482–4136.
A–588–850	731–TA–847	Japan	Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 4½ Inches) (3rd Review).	David Goldberger (202) 482–4136.
A–588–851	731–TA–847	Japan	Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4½ Inches) (3rd Review).	David Goldberger (202) 482–4136.
A–485–805	731–TA–849	Romania	Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4½ Inches) (3rd Review).	David Goldberger (202) 482–4136.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Web site at the following address: "*http://enforcement.trade.gov/sunset/*." All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"), can be found at 19 CFR 351.303.[1]

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[2] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in these segments.[3] The formats for the revised certifications are provided at the end of the *Final Rule*. The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

On April 10, 2013, the Department modified two regulations related to AD/CVD proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301).[4] Parties are advised to review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt*, prior to submitting factual information in these segments. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied. Parties are also advised to review the final rule concerning the extension of time limits for submissions in AD/CVD proceedings, available at *http://enforcement.trade.gov/frn/2013/1309frn/2013-22853.txt*, prior to submitting factual information in these segments.[5]

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d)). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order ("APO") to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.[6]

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews. Consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

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[1] *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

[2] *See* section 782(b) of the Act.

[3] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) ("*Final Rule*") (amending 19 CFR 351.303(g)).

[4] *See Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule*, 78 FR 21246 (April 10, 2013).

[5] *See Extension of Time Limits*, 78 FR 57790 (September 20, 2013).

[6] *See* 19 CFR 351.218(d)(1)(iii).

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: August 25, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016–21209 Filed 8–31–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 14–3A004]

Export Trade Certificate of Review

ACTION: Notice of Issuance of an amended Export Trade Certificate of Review to DFA of California ("DFA"), Application No. 14–3A004.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis ("OTEA"), issued an amended Export Trade Certificate of Review to DFA of California ("DFA") on August 8, 2016.

FOR FURTHER INFORMATION CONTACT: Joseph E. Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325 (2016).

OTEA is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

DFA's Export Trade Certificate of Review has been amended to make the following changes to the list of Members covered by the Certificate:

Proposed Amendment:

1. Change the name of existing Member Diamond Foods, Inc. to Diamond Foods, LLC.

The Members covered by the amended Export Trade Certificate of Review are listed below:

1. Alpine Pacific Nut Company, Hughson, CA
2. Andersen & Sons Shelling, Vina, CA
3. Avanti Nut Company, Inc., Stockton, CA
4. Berberian Nut Company, LLC, Chico, CA
5. Carriere Family Farms, Inc., Glenn, CA
6. California Almond Packers and Exporters (CAPEX), Corning CA
7. California Walnut Company, Inc., Los Molinos, CA
8. Chico Nut Company, Chico, CA
9. Continente Nut LLC, Oakley, CA
10. C. R. Crain & Sons, Inc., Los Molinos, CA
11. Crain Walnut Shelling, Inc., Los Molinos, CA
12. Crisp California Walnuts, Stratford, CA
13. Diamond Foods, LLC, Stockton, CA
14. Empire Nut Company, Colusa, CA
15. Fig Garden Packing, Inc., Fresno, CA
16. Gold River Orchards, Inc., Escalon, CA
17. Grower Direct Nut Company, Hughson, CA
18. GSF Nut Company, Orosi, CA
19. Guerra Nut Shelling Company, Hollister, CA
20. Hill View Packing Company Inc., Gustine, CA
21. Mariani Nut Company, Winters, CA
22. Mariani Packing Company, Inc., Vacaville, CA
23. Mid Valley Nut Company Inc., Hughson, CA
24. Morada Nut Company, LP, Stockton, CA
25. National Raisin Company, Fowler, CA
26. O–G Nut Company, Stockton, CA
27. Omega Walnut, Inc., Orland, CA
28. Pearl Crop, Inc., Stockton, CA
29. Poindexter Nut Company, Selma, CA
30. Prima Noce Packing, Linden, CA
31. RPC Packing Inc., Porterville, CA
32. Sacramento Packing, Inc., Yuba City, CA
33. Sacramento Valley Walnut Growers, Inc., Yuba City, CA
34. San Joaquin Figs, Inc., Fresno, CA
35. Shoei Foods USA, Inc., Olivehurst, CA
36. Stapleton-Spence Packing, Gridley, CA
37. Sun-Maid Growers of California, Kingsburg, CA
38. Sunsweet Growers Inc., Yuba City, CA
39. Taylor Brothers Farms, Inc., Yuba City, CA
40. T.M. Duche Nut Company, Inc., Orland, CA
41. Wilbur Packing Company, Inc., Live Oak, CA
42. Valley Fig Growers, Fresno, CA

No change has been made regarding the Export Trade, Export Trade Activities or Methods of Operation covered by the Certificate.

The amended Certificate of Review is effective from May 9, 2016, the date on which the application for an amendment was deemed submitted.

Dated: August 26, 2016.

Emily Kilcrease,

Office of Trade and Economic Analysis, International Trade Administration.

[FR Doc. 2016–21072 Filed 8–31–16; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE849

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council, NEFMC) will hold a three-day meeting to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, Wednesday, and Thursday, September 20, 21, and 22, 2016. It will start at 9 a.m. on September 20; 8:30 a.m. on September 21; and at 8:30 a.m. on September 22, 2016.

ADDRESSES: The meeting will be held at the DoubleTree by Hilton Hotel, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500; online at *http://doubletree3.hilton.com/en/hotels/massachusetts/doubletree-by-hilton-hotel-boston-north-shore-BOSNSDT/index.html.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492; *www.nefmc.org.*

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492, ext. 113.

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, September 20, 2016

After introductions and brief announcements, the meeting will begin with the swearing-in of new and reappointed Council members, followed by the annual election of officers. Next, the Council will receive reports from its Chairman and Executive Director, NMFS's Regional Administrator for the Greater Atlantic Regional Office (GARFO), liaisons from the Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council, representatives from NOAA General Counsel and the Office of Law Enforcement, and staff from the Atlantic States Marine Fisheries Commission and the U.S Coast Guard. Following these reports, the Council will receive a presentation from the NMFS Highly Migratory Species (HMS) staff on Draft Amendment 10 to the Consolidated HMS Fishery Management Plan (FMP), which addresses habitat revisions.

After a lunch break, members of the public will be able to speak during an open comment period on issues that relate to Council business but are not included on the published agenda for this meeting. Next, the Whiting Plan Development Team (PDT) will present the 2015 Annual Monitoring Report for the small-mesh multispecies fishery, which includes red, silver, and offshore hakes. Based on the contents of this report, the Council may, if necessary, initiate a framework adjustment to modify accountability measures (AMs) in the fishery. The Council then will receive an update from its Atlantic Herring Committee about two actions that are under development: (1) Amendment 8 to the Atlantic Herring FMP, which is considering acceptable biological catch (ABC) control rules for the fishery under a management strategy evaluation (MSE) process and measures to address localized depletion; and (2) Framework Adjustment 5 to potentially modify haddock bycatch AMs in the herring midwater trawl fishery. The Council will close out the day with a report from the GARFO staff about its electronic monitoring (EM) pilot project on Atlantic herring and mackerel midwater trawl vessels to test the utility of EM for future programs.

Wednesday, September 21, 2016

The second day of the meeting will begin with a report from the Transboundary Resource Assessment Committee (TRAC) with results from the 2016 stock assessments for Eastern Georges Bank cod, Eastern Georges Bank haddock, and Georges Bank yellowtail flounder. The Scientific and Statistical Committee (SSC) will report next with ABC recommendations for Georges Bank yellowtail flounder, monkfish, and deep-sea red crab. Following the SSC report, the Council will hear from U.S. representatives to the Transboundary Management Guidance Committee (TMGC) and potentially approve TMGC recommendations for 2017 total allowable catches (TACs) for U.S./Canada shared stocks on Georges Bank. Next, the Council will go into its Groundfish Committee report, where it is scheduled to approve a range of alternatives for Framework Adjustment 56, including: (1) 2017 U.S./Canada specifications; (2) 2017–19 witch flounder specifications; and (3) commercial and recreational management measures for groundfish. More specifically, the management measures under consideration include: (a) Establishment of a sub-annual catch limit (sub-ACL) for northern windowpane flounder for the scallop fishery; (b) a potential increase to the sub-ACL for Georges Bank haddock for the Atlantic herring midwater trawl fishery; (c) revisions to the process for determining recreational management measures; and (d) potential modifications to Atlantic halibut measures. Finally, the Council will receive a briefing on the PDT's Groundfish Monitoring White Paper.

The Council will take a lunch break and, if necessary, conclude any unfinished groundfish business immediately following lunch. Then it will receive a report from its Monkfish Committee, which will include an update on fishing year 2017–19 specifications and potentially lead to the initiation of a framework adjustment if the Council determines that additional management measures are warranted. Closing out the day, the Council will receive an Atlantic deep-sea red crab report and take final action on 2017–19 specifications for the fishery.

Thursday, September 22, 2016

The final meeting day will begin with a preliminary discussion of 2017 Council priorities. Here, the Council will review and discuss a draft list of possible actions and tasks for further development in 2017 covering all committees. The Council will not take final action on priorities until its November meeting. Next, the Council will receive an update from its Habitat Committee on the development of two actions: (1) The Omnibus Deep-Sea Coral Amendment; and (2) a Clam Dredge Framework Adjustment. The Council will hear about ongoing analyses for both actions and provide recommendations for further work. It also will review and possibly approve minor adjustments to the range of alternatives in the coral amendment. The Scallop Committee will report next with an update on Framework Adjustment 28 to the Atlantic Sea Scallop FMP. The framework includes: (1) Specifications for fishing year 2017 with default measures for 2018; (2) a measure to potentially restrict the possession of shell stock inshore of the days-at-sea demarcation line north of 42°20′ N.; (3) modifications to the process for setting scallop fishery annual catch limits; and (4) modifications to the Closed Area I Scallop Access Area boundary to be consistent with potential changes to habitat and groundfish mortality closed areas. More specifically, the 2017 specifications and 2018 default measures include: (a) Setting ABCs, ACLs, days-at-sea, and access-area allocations for both limited access (LA) and limited access general category (LAGC) vessels; (b) determining the hard TAC for the Northern Gulf of Maine Management Area; (c) setting the target TAC for the LAGC incidental catch; and (d) specifying set-aside amounts for the scallop observer and research set-aside programs.

Following a lunch break, the Scallop Committee discussion may resume to conclude any unfinished business before the Council begins its Ecosystem-Based Fishery Management (EBFM) session. Here, the Council will receive a draft report from the EBFM PDT on a Georges Bank operating model to support the development of an example Fishery Ecosystem Plan and Management Strategy Evaluation. The Council will provide further guidance to the PDT and the EBFM Committee for additional work. Next, the Council will develop comments for NMFS on its EBFM road map. Finally, the meeting will conclude with a discussion of items under "other business."

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: August 26, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–21019 Filed 8–31–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE850

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Spiny Dogfish Monitoring Committee will hold a public meeting.

DATES: The meeting will be held Friday, September 16, 2016, from 9 a.m. to 11 a.m.

ADDRESSES: The meeting will be held via webinar: *http://mafmc.adobeconnect.com/spinydogmc-2016/*. Call-in information is provided upon logging onto the webinar.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's Web site, *www.mafmc.org* will also have details on the proposed agenda and briefing materials.

SUPPLEMENTARY INFORMATION: The MAFMC's Spiny Dogfish Monitoring Committee will hold a public meeting to review 2017 specifications and management measures and make any appropriate recommendations. Spiny dogfish is in multi-year specifications for 2016–18 but the specifications are reviewed annually. Public comment will be taken.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: August 29, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–21074 Filed 8–31–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Saltwater Sport Fishing Economic Survey.

OMB Control Number: 0648–0639.

Form Number(s): None.

Type of Request: Regular (reinstatement without change).

Number of Respondents: 2,902.

Average Hours per Response: Survey, 30 minutes; follow-up telephone interview, 6 minutes.

Burden Hours: 1,374.

Needs and Uses: This request is for a reinstatement, with changes, without change, of a previously approved information collection.

The National Marine Fisheries Service (NMFS) previously collected survey data in 2007 and 2012 for conducting economic analyses of marine sport fishing in Alaska. These surveys were necessary to understand the factors that affect the economic value of marine recreational fishing trips and improve estimates of fishing trip values that can aid fishery managers evaluate management options pertaining to sport fisheries. The proposed survey is an update of the previously conducted surveys and is needed to improve estimates of fishing trip values potentially affected by recent changes in federal recreational fisheries off Alaska, most notably the Halibut Catch Sharing Plan (76 FR 44156) which went into effect in 2014 for the Pacific halibut fishery. Several questions in the survey have been updated to better reflect these recent fishery management changes.

The Federal Government is responsible for the management of the Pacific halibut sport fishery off Alaska, while the State of Alaska manages the salmon sport fisheries (Chinook, coho, sockeye, chum, and pink), as well as several other saltwater sport fisheries. The updated survey's scope covers marine sport fishing for Pacific halibut, salmon, and other popular marine sport species in Alaska (*e.g.,* lingcod and rockfish). The data collected from the survey will be used to update estimates of the demand for and value of marine fishing to anglers and to analyze how the type of fish caught, fishery regulations, and other factors affect fishing values and anglers' decisions to participate in Alaska marine fishing activities. The economic information provided from the survey will help inform fishery managers about the economic values of Alaska marine sport fisheries and the changes to participation in these fisheries with proposed regulations.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: August 29, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–21050 Filed 8–31–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE796

Endangered and Threatened Species; Initiation of 5-Year Review for Mediterranean Monk Seal

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of initiation of 5-year review; request for information.

SUMMARY: We, NMFS, announce a 5-year review of the Mediterranean monk seal (*Monachus monachus*) under the Endangered Species Act of 1973, as amended (ESA), to ensure that the listing classification of the species is accurate. The 5-year review will be

based on the best scientific and commercial data available at the time of the review. Therefore, we request submission of any such information on Mediterranean monk seals that has become available since their original listing as endangered in June 1970. Based on the results of this 5-year review, we will make the requisite determination under the ESA.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than October 31, 2016. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: You may submit information on this document identified by NOAA–NMFS–2016–0104 by either of the following methods:

- *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0104,* click on the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- Mail or hand-deliver written comments to Brendan Newell, NMFS Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Brendan Newell, NMFS Office of Protected Resources, 301–427–7710.

SUPPLEMENTARY INFORMATION: Under the ESA, the U.S. Fish and Wildlife Service maintains a list of endangered and threatened wildlife and plant species at 50 CFR 17.11 (for animals) and § 17.12 (for plants). Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every five years. On the basis of such reviews under section 4(c)(2)(B), we determine whether or not any species should be delisted or reclassified from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification would require a separate rulemaking process. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the Mediterranean monk seal currently listed as endangered (56 FR 1463; January 14, 1991).

Background information on Mediterranean monk seals including the endangered listing is available on the NMFS Office of Protected Species Web site at: *http://www.fisheries.noaa.gov/pr/species/mammals/seals/mediterranean-monk-seal.html.*

Determining if a Species Is Threatened or Endangered

Section 4(a)(1) of the ESA requires that we determine whether a species is endangered or threatened based on one or more of the five following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Section 4(b) also requires that our determination be made on the basis of the best scientific and commercial data available after taking into account those efforts, if any, being made by any State or foreign nation, to protect such species.

Public Solicitation of New Information

To ensure that the 5-year review is complete and based on the best available scientific and commercial information, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of Mediterranean monk seals. The 5-year review considers the best scientific and commercial data and all new information that has become available since the listing determination or most recent status review. Categories of requested information include: (1) Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (2) habitat conditions including, but not limited to, amount, distribution, and important features for conservation; (3) status and trends of threats; (4) conservation measures that have been implemented that benefit the species, including monitoring data demonstrating effectiveness of such measures; (5) need for additional conservation measures; and (6) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the list of endangered and threatened species, and improved analytical methods for evaluating extinction risk.

If you wish to provide information for this 5-year review, you may submit your information and materials electronically or via mail (see **ADDRESSES** section). We request that all information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. We also would appreciate the submitter's name, address, and any association, institution, or business that the person represents; however, anonymous submissions will also be accepted.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: August 29, 2016.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–21069 Filed 8–31–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2015–0018]

Proposed Collection; Comment Request

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Civil Works announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by October 31, 2016.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the US Army Corps of Engineers, Institute for Water Resources, Casey Building, 8801 Telegraph Road, Alexandria VA 22315, ATTN Meredith Bridgers or call 703–428–8458.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Recreation Use and Expenditure Survey; OMB Control Number 0710–XXXX.

Needs and Uses: The information collection requirement is necessary to produce recreation visitation and local expenditure estimates at US Army Corps of Engineers Water Resource Projects.

Affected Public: Individuals or households, business or other for-profit, and not-for-profit institutions.

Annual Burden Hours: 2,115 hours.

Number of Respondents: 19,050.

Responses per Respondent: 1.11.

Annual Responses: 21,146.

Average Burden per Response: 6 minutes (0.1 hours).

Recreation Use Survey—5 min per response.

Abbreviated Bus/Bike Survey—2 minutes per response.

Web-Based Follow-up Economic Survey—11 minutes per response.

Frequency: On occasion.

Respondents are public visitors to US Army Corps of Engineers Recreation Areas. Visitors exiting the recreation area by vehicle are stopped as potential respondents. Participation is voluntary. Respondents are asked questions in the following categories; characteristics of visit, quantity of people in the vehicle, description of overnight stay, activity participation, demographics, willingness to participate in follow-up web survey. The follow-up web survey asks questions in the following categories; total party size, trip frequency, activity equipment characteristics. Appropriate disclosures (Privacy Act Statement) may be provided to the respondent visually (in writing on paper) or orally (in spoken word by a USACE employee or representative).

Dated: August 29, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–21089 Filed 8–31–16; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notification of an Open Meeting of the National Defense University Board of Visitors (BOV)

AGENCY: National Defense University, DoD.

ACTION: Notice of open meeting.

SUMMARY: The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the National Defense University Board of Visitors (BOV) will take place.

DATES: The meeting will be held on Thursday, September 29, 2016 from 12:00 p.m. to 4:00 p.m. and will continue on Friday, September 30, 2016, from 8:30 a.m. to 12:00 p.m.

ADDRESSES: The Board of Visitors meeting will be held at Marshall Hall, Building 62, Room 155B, the National Defense University, 300 5th Avenue SW., Fort McNair, Washington, DC 20319–5066.

FOR FURTHER INFORMATION CONTACT: The point of contact for this notice of open meeting is Ms. Joycelyn Stevens at (202) 685–0079, Fax (202) 685–3920 or *StevensJ7@ndu.edu.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. The future agenda will include discussion on accreditation compliance, organizational management, strategic planning, resource management, and other matters of interest to the National Defense University. Limited space made available for observers will be allocated on a first come, first served basis. Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, written statements to the committee may be submitted to the committee at any time or in response to a stated planned meeting agenda by FAX or email to the point of contact person listed in **FOR FURTHER INFORMATION CONTACT**. (Subject Line: Comment/Statement to the NDU BOV).

Dated: August 29, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–21075 Filed 8–31–16; 8:45 a.m.]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Microsphere Material Solutions, LLC.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy. The Department of the Navy hereby gives notice of its intent to grant to Microsphere Material Solutions, LLC., a revocable, nonassignable, exclusive license to practice in the United States, the

Government-owned invention described below:

U.S. PATENT 9,102,087 (Navy Case 103037): Issued August 11, 2015, entitled "FOAMS MADE OF AMORPHOUS HOLLOW SPHERES AND THE MANUFACTURE THEREOF".

DATES: Anyone wishing to object to the grant of this must file written objections along with supporting evidence, if any, not later than September 16, 2016.

ADDRESSES: Written objections are to be filed with Naval Surface Warfare Center, Crane Div, Code OOL, Bldg. 2, 300 Highway 361, Crane, IN 47522–5001.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Monsey, Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522–5001, telephone 812–854–4100.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: August 24, 2016.

N.A. Hagerty-Ford,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2016–21051 Filed 8–31–16; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0065]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Study of the Turnaround School Leaders Program (TSLP)

AGENCY: Department of Education (ED), Office of Planning, Evaluation and Policy Development (OPEPD).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before October 3, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0065. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–347, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Ivy Morgan, 202–401–7767.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Study of the Turnaround School Leaders Program (TSLP).

OMB Control Number: 1875–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 62.

Total Estimated Number of Annual Burden Hours: 63.

Abstract: The study will examine the implementation of the Turnaround School Leaders Program (TSLP) and provide information on how grantees (1) identify, develop, and support leaders and aspiring leaders of low-performing schools; (2) adjust their project plans, (3) use data to examine progress, and (4) work with project partners to meet goals. The ultimate purpose of the study is to glean specific lessons learned for turnaround leadership development (for the field), program improvement (for program staff), and program design (for policy makers). The study will include surveys of all (12) Cohort 1 grantees; case studies of seven Cohort 1 grantees, including each grantees' partners; and an analysis of extant data, including grantee applications, early outcomes data, and other relevant project-specific data.

Dated: August 29, 2016.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–21044 Filed 8–31–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0062]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Study of School Climate Transformation Grants

AGENCY: Department of Education (ED), Office of Planning, Evaluation and Policy Development (OPEPD)

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before October 3, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0062. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–347, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Joanne Bogart, 202–205–7855.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Study of School Climate Transformation Grants.

OMB Control Number: 1875–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 89.

Total Estimated Number of Annual Burden Hours: 127.

Abstract: This study examines how state departments of education and school districts that have received multiple federal grants coordinate the activities across those grants. U.S. Department of Education-funded School Climate Transformation Grants aim to improve school safety by supporting schools in the implementation of an evidence-based, multi-tiered system of behavioral support. Department of Health and Human Services-supported Project AWARE grants aim to increase access to mental health services by training adults to notice signs of behavioral health distress and intervene appropriately. Department of Justice-funded School Justice Collaboration Program grants supports courts' collaboration with schools to implement diversion and similar programs to minimize juvenile detention. The study will explore the nature of coordination across grants, the perceived value of coordination, and challenges and lessons learned.

Dated: August 29, 2016.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–21042 Filed 8–31–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Public Meeting To Summarize Public Input Received on the Design of a Consent-Based Siting Process for Spent Nuclear Fuel and High-Level Radioactive Waste Storage and Disposal Facilities

AGENCY: Fuel Cycle Technologies, Office of Nuclear Energy, Department of Energy.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Department of Energy (DOE) is designing a consent-based process for siting facilities that will be a part of an integrated waste management system to transport, store, and dispose of spent nuclear fuel and high-level radioactive waste. As part of this process, the Department issued an Invitation for Public Comment in the **Federal Register** on December 23, 2015 and hosted eight public meetings across the United States in 2016 to get public input on the elements that should be considered in the development of a consent-based siting process. At the September 15, 2016 meeting, the Department will summarize the comments received and discuss next steps in designing a consent-based siting process. The entire meeting will be broadcast live via webstream at *http://consentbasedsitingwebcast.azureWebsites.net.*

DATES: The meeting will take place on Thursday September 15, 2016 from 2:00–4:00 p.m. Eastern Daylight Time. Department officials will be available to discuss consent-based siting during an informal open house 30 minutes before and after the formal meeting.

ADDRESSES: The meeting will be held at the Embassy Suites by Hilton Washington DC Convention Center, 900 10th St NW., Washington, DC 20001. To register for this meeting and to review the agenda for this meeting, please visit *energy.gov/consentbasedsiting.*

FOR FURTHER INFORMATION CONTACT: Requests for further information should be sent to *consentbasedsiting@hq.doe.gov* or to Michael Reim at 202–586–2981. Updated information including registration links and meeting information will be posted at *energy.gov/consentbasedsiting.*

Privacy Act/Publishing of Personally Identifiable Information: Data collected via the mechanisms listed above will not be protected from the public view in any way. Individual commentors' names and addresses (including email addresses) received as part of oral presentations at the public meeting will be included in the transcript of the public meeting will be published at *energy.gov/consentbasedsiting.*

Issued in Washington, DC on August 23, 2016.

Andrew Griffith,

Associate Deputy Assistant Secretary for Fuel Cycle Technologies, Office of Nuclear Energy, Department of Energy.

[FR Doc. 2016–21071 Filed 8–31–16; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket ID No. EPA–HQ–ORD–2009–0229; FRL–9951–62–ORD]

Public Comment Draft for the Integrated Risk Information System (IRIS) Assessment of Ethyl Tertiary Butyl Ether (ETBE)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a 60-day public comment period for the draft IRIS Toxicological Review of ETBE. The draft document was prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development (ORD).

As outlined in the May 21, 2009, IRIS process under step 4, EPA is releasing this draft IRIS assessment for public comment and discussion at the October 26, 2016, IRIS Public Science Meeting. This draft assessment is not final, as described in EPA's information quality guidelines, and it does not represent, and should not be construed to represent Agency policy or views. EPA will consider all public comments submitted in response to this notice when revising this document.

DATES: The 60-day public comment period begins September 1, 2016, and ends October 31, 2016. Comments must be received on or before October 31, 2016.

ADDRESSES: The draft IRIS Toxicological Review of ETBE will be available via the internet on EPA's IRIS Web page under Recent Additions at *http://www.epa.gov/iris/iris-recent-additions* or the public docket at *http://www.regulations.gov*, Docket ID: EPA–HQ–ORD–2009–0229.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the ORD Docket at the EPA Headquarters Docket Center; telephone: 202–566–1752; facsimile: 202–566–9744; or email: *Docket_ORD@epa.gov*.

For technical information on the draft IRIS assessment ETBE, contact Dr. Keith Salazar, NCEA; telephone: 703–347–0278; or email: *salazar.keith@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Information About IRIS

EPA's IRIS Program is a human health assessment program that evaluates quantitative and qualitative risk information on effects that may result from exposure to chemicals found in the environment. Through the IRIS Program, EPA provides the highest quality science-based human health assessments to support the Agency's regulatory activities and decisions to protect public health. The IRIS database contains information on chemicals that can be used to support the first two steps (hazard identification and dose-response evaluation) of the human health risk assessment process. When supported by available data, IRIS provides health effects information and toxicity values for health effects (including cancer and effects other than cancer). Government and others combine IRIS toxicity values with exposure information to characterize public health risks of chemicals; this information is then used to support risk management decisions designed to protect public health.

II. How To Submit Technical Comments to the Docket at *www.regulations.gov*

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2009–0229, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: Docket_ORD@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center (ORD Docket), Mail Code: 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The ORD Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC.

The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2009–0229. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked "late," and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information through *www.regulations.gov* or email that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm.*

Docket: Documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the ORD Docket in the EPA Headquarters Docket Center.

Dated: August 19, 2016.

Chris Saint,

Acting Deputy Director, National Center for Environmental Assessment.

[FR Doc. 2016–21005 Filed 8–31–16; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATES: *Date and Time:* The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on September 8, 2016, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

OPEN SESSION

A. *Approval of Minutes*

- August 11, 2016

B. *New Business*

- Final Rule: Amendment of Freedom of Information Act (FOIA) Regulations Required by the FOIA Improvement Act of 2016
- Quarterly Report on Economic Conditions and FCS Conditions

*CLOSED SESSION**

- Office of Examination Quarterly Report

* Session Closed-Exempt pursuant to 5 U.S.C. Section 552b(c)(8) and (9).

Dated: August 30, 2016.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2016–21197 Filed 8–30–16; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request (3064–0026)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of an existing information collection, as required by the Paperwork Reduction Act of 1995. On June 10, 2016, (81 FR 37665), the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (the Board) and the FDIC requested comment for 60 days on a proposal to renew the information collection described below. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of this collection, and again invites comment on this renewal.

DATES: Comments must be submitted on or before October 3, 2016.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Manny Cabeza, (202.898.3767), Counsel, Room MB–3105, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza, at the FDIC address above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently-approved collection of information:

Title: Uniform Interagency Transfer Agent Registration and Amendment Form.

OMB Number: 3064–0026.

Form Number: Form TA–1.

Affected Public: Private sector, insured state nonmember banks and state savings associations.

Frequency of Response: On occasion.

Estimated Number of Respondents: Registration—2; amendments—10.

Estimated Average Time per Response: Registrations—1.25 hours; amendments—10 minutes.

Estimated Total Annual Burden: 4.667 hours.

General Description: Section 17A(c) of the Security Exchange Act of 1934 (the Act) requires all transfer agents for securities registered under section 12 of the Act or, if the security would be required to be registered except for the exemption from registration provided by Section 12(g)(2)(B) or Section 12(g)(2)(G), to "fil[e] with the appropriate regulatory agency . . . an application for registration in such form and containing such information and documents . . . as such appropriate regulatory agency may prescribe as necessary or appropriate in furtherance of the purposes of this section." [1] In general, an entity performing transfer agent functions for a security is required to register with its appropriate regulatory agency ("ARA") if the security is registered on a national securities exchange or if the issuer of the security has total assets exceeding $10 million and a class of equity security held of record by 2,000 persons or, for an issuer that is not a bank, BHC, or SLHC, by 500 persons who are not accredited investors.[2] The Board's Regulation H (12 CFR 208.31(a)) and Regulation Y (12 CFR 225.4(d)), the OCC's 12 CFR 9.20, and the FDIC's 12 CFR part 341 implement these provisions of the Act.

To accomplish the registration of transfer agents, Form TA–1 was developed in 1975 as an interagency effort by the Securities and Exchange Commission (SEC) and the agencies. The agencies primarily use the data collected on Form TA–1 to determine whether an application for registration should be approved, denied, accelerated or postponed, and they use the data in connection with their supervisory responsibilities.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 29th day of August, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–21054 Filed 8–31–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10500—Slavie Federal Savings Bank Bel Air, Maryland

Notice is hereby given that the Federal Deposit Insurance Corporation ("FDIC") as Receiver for Slavie Federal Savings Bank, Bel Air, Maryland ("the Receiver") intends to terminate its receivership for said institution. The FDIC was appointed receiver of Slavie Federal Savings Bank on May 30, 2014.

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[1] 15 U.S.C. 78q–1.

[2] 15 U.S.C. 78l(g)(1).

The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: August 29, 2016.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 2016–21053 Filed 8–31–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011730–006.

Title: GWF/Dole Space Charter and Sailing Agreement.

Parties: Dole Ocean Cargo Express, Inc. and Great White Fleet Liner Services Ltd.

Filing Party: Wade S. Hooker, Esq., 211 Central Park West, New York, NY 10024.

Synopsis: The amendment updates the address of one of the parties, Great White Fleet Liner Services Ltd.

Agreement No.: 012178–002.

Title: GWF/Crowley Space Charter Agreement.

Parties: Great White Fleet Liner Services Ltd. and Crowley Latin American Services, LLC.

Filing Party: Wade S. Hooker, Esquire, 211 Central Park W., New York, N.Y. 10024.

Synopsis: The amendment changes the address of Great White Fleet Liner Services.

Agreement No.: 012435.

Title: CMA CGM/HLAG U.S.-West Med Slot Sale Arrangement.

Parties: Hapag-Lloyd AG and CMA CGM S.A.

Filing Party: Wayne Rohde, Esq., Cozen O'Connor, 1200 Nineteenth Street NW., Washington, DC 20036.

Synopsis: The Agreement authorizes CMA CGM to sell space to Hapag Lloyd in the trade from Italy and Spain to ports in Mexico, Jamaica and on the U.S. Gulf Coast.

By Order of the Federal Maritime Commission.

Dated: August 26, 2016.

Karen V. Gregory,

Secretary.

[FR Doc. 2016–20999 Filed 8–31–16; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 29, 2016.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Monticello Bankshares, Inc.,* Monticello, Kentucky; to merge with Banco Harlan, Inc., Harlan, Kentucky, and thereby indirectly acquire The Bank of Harlan, Harlan, Kentucky.

Board of Governors of the Federal Reserve System, August 29, 2016.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2016–21081 Filed 8–31–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 16, 2016.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Larry Ernest Cheek, Carol T. Cheek, Dover and Cheek, Inc., and Judd Cheek, all Buford, Georgia, and Carmen Cheek, Gainesville, Georgia;* to retain the outstanding shares of Peoples BankTrust, Inc., and thereby indirectly retain, Peoples Bank & Trust Company, both of Buford, Georgia.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *The Stephen L. LaFrance, Jr. GW Investments Trust, the Jason P. LaFrance GW Investments Trust, the Amy Beth LaFrance GW Investments Trust, all of Little Rock, Arkansas, Stephen L. LaFrance, Jr., Little Rock, Arkansas, as trustee of the Stephen L. LaFrance, Jr. GW Investments Trust and co-trustee of the Jason P. LaFrance GW Investments Trust, and Jason P. LaFrance, Little Rock, Arkansas, as co-trustee of the Jason P. LaFrance GW Investments Trust and as trustee of the Amy Beth LaFrance GW Investments Trust and the Amy LaFrance Bancroft GW Investments Revocable Trust, Little Rock, Arkansas;* to acquire voting shares of Greenwoods Financial Group, Inc., Lake Mills, Wisconsin, and thereby join the existing LaFrance Family Control Group that was approved to acquire 10 percent or more of the outstanding shares of Greenwoods Financial Group, Inc. Greenwoods Financial Group, Inc. controls The Greenwood's State Bank, Lake Mills, Wisconsin.

Board of Governors of the Federal Reserve System, August 26, 2016.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2016–21009 Filed 8–31–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 26, 2016.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Canadian Imperial Bank of Commerce, Toronto, Canada and its wholly-owned subsidiary, CIBC Holdco Inc., New York, New York;* to acquire PrivateBancorp, Inc. and thereby indirectly acquire The PrivateBank and Trust Company, both in Chicago, Illinois.

Board of Governors of the Federal Reserve System, August 26, 2016.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2016–21010 Filed 8–31–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Request for Nominations of Candidates To Serve on the Advisory Committee to the Director, Centers for Disease Control and Prevention (ACD, CDC)—Health Disparities Subcommittee (HDS)

The Centers for Disease Control and Prevention (CDC) is soliciting nominations for possible membership on the ACD, CDC–HDS. This subcommittee consists of up to 16 experts in fields related to health policy, public health, global health, preparedness, preventive medicine, the faith-based and community-based sector, and allied fields who are selected by the CDC. The HDS provides interdisciplinary perspectives and subject matter expertise to the goal of reducing health disparities which may include research, program and policy analyses, and other developmental activities for the ACD, CDC on CDC's efforts to address health disparities which is integral to achieving the agency's overarching health impact goals. Specifically, the HDS will submit work products to the ACD, CDC for deliberation, discussion, and decision.

Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishment of the subcommittee's mission. Nominees will be selected by the Designated Federal Officer of the ACD, CDC. Members may be invited to serve for terms of up to three years.

The U.S. Department of Health and Human Services policy stipulates that committee membership shall be balanced in terms of professional training and background, points of view represented, and the committee's function. Appointments shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Subcommittee members are Special Government Employees, requiring the filing of financial disclosure reports at the beginning and annually during their terms.

Note that the need for different expertise varies from year to year and a candidate who is not selected in one year may be reconsidered in a subsequent year.

Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Candidates should submit the following items:

- Current curriculum vitae, including complete contact information (telephone numbers, mailing address, email address),
- At least one letter of recommendation from person(s) not employed by the U.S. Department of Health and Human Services. (Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person *not* employed by an HHS agency (*e.g.,* CDC, NIH, FDA, etc.).

Nomination materials must be date stamped by midnight on September 30, 2016 and sent to: *ACDirector@cdc.gov* or to Tracie Strength, Office of the Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE., Mailstop D14, Atlanta, Georgia 30329. Please direct questions to Tracie Strength at (404)498–6482.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 2016–21039 Filed 8–31–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Tribal Consultation Meetings

AGENCY: Office of Head Start (OHS), Administration for Children and Families, Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Improving Head Start for School Readiness Act of 2007, Public Law 110–134, notice is hereby given of a 1-day Tribal Consultation Session to be held between the Department of Health and Human Services (HHS), Administration for Children and Families, OHS leadership and the leadership of Tribal Governments operating Head Start (including Early Head Start) programs. The purpose of these Consultation Sessions is to discuss ways to better meet the needs of American Indian and Alaska Native children and their families, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in their geographic locations [42 U.S.C. 9835, Section 640(l)(4)].

DATES: October 19, 2016, from 8:00 a.m. to 1:00 p.m.

LOCATION: ThrivAlaska Head Start Center at 1949 Gilliam Way, Fairbanks, Alaska 99701.

FOR FURTHER INFORMATION CONTACT: Angie Godfrey, Regional Program Manager, Region XI AI/AN, OHS, email *Angie.Godfrey@acf.hhs.gov,* or phone (202) 205–5811. Additional information and online meeting registration is available at: *http://eclkc.ohs.acf.hhs.gov/hslc/hs/calendar/tc2016.*

SUPPLEMENTARY INFORMATION: HHS announces OHS Tribal Consultations for leaders of Tribal Governments operating Head Start and Early Head Start programs. The agenda for the scheduled OHS Tribal Consultations in Fairbanks, Alaska, will be organized around the statutory purposes of Head Start Tribal Consultations related to meeting the needs of American Indian and Alaska Native children and families, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in that geographic location. In addition, OHS will share actions taken and in progress to address the issues and concerns raised in the 2016 OHS Tribal Consultation.

The Consultation Session will be conducted with elected or appointed leaders of Tribal Governments and their designated representatives [42 U.S.C. 9835, Section 640(l)(4)(A)]. Designees must have a letter from the Tribal Government authorizing them to represent the tribe. Tribal Governments must submit the designee letter at least 3 days in advance of the Consultation Session to Angie Godfrey at *Angie.Godfrey@acf.hhs.gov.* Other representatives of tribal organizations and Native nonprofit organizations are welcome to attend as observers.

A detailed report of the Consultation Session will be prepared and made available within 45 days of the Consultation Session to all Tribal Governments receiving funds for Head Start and Early Head Start programs. Tribes wishing to submit written testimony for the report should send testimony to Angie Godfrey at *Angie.Godfrey@acf.hhs.gov* either prior to the Consultation Session or within 30 days after the meeting. OHS will summarize oral testimony and comments from the Consultation Session in a report without attribution, along with topics of concern and recommendations.

Dated: August 26, 2016.

Blanca E. Enriquez,

Director, Office of Head Start.

[FR Doc. 2016–21047 Filed 8–31–16; 8:45 am]

BILLING CODE 4184–40–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Announcement of the Award of Single-Source Grants Under the Wilson-Fish Alternative Program (W–F); Correction; CFDA Number: 93.583

AGENCY: Office of Refugee Resettlement, ACF, HHS.

ACTION: Notice; correction.

SUMMARY: The Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), published a document in the **Federal Register** of August 22, 2016, concerning the announcement of the award of 13 single-source grants for a total of $35,513,938 under the W–F Alternative Program. The document contained an incorrect address and telephone number.

FOR FURTHER INFORMATION CONTACT: Colleen Mahar-Piersma, Program Analyst, Office of Refugee Resettlement, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20201. Telephone: 202–205–5266; Email: *colleen.mahar-piersma@acf.hhs.gov.*

Correction

In the **Federal Register** of August 22, 2016, in FR Doc. 2016–19923, on page 56655, in the third column, correct the **FOR FURTHER INFORMATION CONTACT** caption to read: Colleen Mahar-Piersma, Program Analyst, Office of Refugee Resettlement, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20201. Telephone: 202–205–5266; Email: *colleen.mahar-piersma@acf.hhs.gov.*

Mary M. Wayland,

Senior Grants Policy Specialist, Division of Grants Policy, Office of Administration.

[FR Doc. 2016–21038 Filed 8–31–16; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Advisory Committee; Cardiovascular and Renal Drugs Advisory Committee, Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; renewal of advisory committee.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Cardiovascular and Renal Drugs Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Cardiovascular and Renal Drugs Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until August 27, 2018.

DATES: Authority for the Cardiovascular and Renal Drugs Advisory Committee will expire on August 27, 2016, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Jennifer Shepherd, Center for Drug Evaluation and Research, Food and

Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, email: *CRDAC@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 102–3.65 and approval by the Department of Health and Human Services pursuant to 45 CFR part 11 and by the General Services Administration, FDA is announcing the renewal of the Cardiovascular and Renal Drugs Advisory Committee. The committee is a discretionary Federal advisory committee established to provide advice to the Commissioner. The Cardiovascular and Renal Drugs Advisory Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and, as required, any other product for which the Food and Drug Administration has regulatory responsibility.

The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cardiovascular and renal disorders and makes appropriate recommendations to the Commissioner of Food and Drugs.

The Committee shall consist of a core of 11 voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of cardiology, hypertension, arrhythmia, angina, congestive heart failure, diuresis, and biostatistics. Members will be invited to serve for overlapping terms of up to four years. Almost all non-Federal members of this committee serve as Special Government Employees. The core of voting members may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one non-voting member who is identified with industry interests.

Further information regarding the most recent charter and other information can be found at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/Drugs/CardiovascularandRenalDrugsAdvisoryCommittee/ucm094743.htm* or by contacting the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). In light of the fact that no change has been made to the committee name or description of duties, no amendment will be made to 21 CFR 14.100.

This document is issued under the Federal Advisory Committee Act (5 U.S.C. app.). For general information related to FDA advisory committees, please visit us at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

Dated: August 26, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–21041 Filed 8–31–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

The Sentinel Post-Licensure Rapid Immunization Safety Monitoring Program; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public workshop entitled "The Sentinel Post-Licensure Rapid Immunization Safety Monitoring (PRISM) Program." The purpose of the workshop is to describe the Sentinel Initiative and PRISM program, illustrate how PRISM is used by FDA for regulatory responsibilities (including how it has been integrated into FDA's regulatory review process and case examples), and discuss the future direction of PRISM in terms of expansion and further integration into the regulatory review process.

DATES: The public workshop will be held on December 7, 2016, from 8:30 a.m. to 5 p.m. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held at the National Institutes of Health, 8600 Rockville Pike, Lister Hill Center Auditorium, Building 38A, Bethesda, MD 20894.

FOR FURTHER INFORMATION CONTACT: Chris Nguyen, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 4124, Silver Spring, MD 20993–0002; or Cynthia Whitmarsh, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 4122, Silver Spring, MD 20993–0002: For questions, email: *CBERPublicEvents@fda.hhs.gov* (Subject Line: Sentinel PRISM Workshop).

SUPPLEMENTARY INFORMATION: The Sentinel Initiative is FDA's national electronic surveillance system for the post-market safety monitoring of medical products. The Sentinel System was implemented as an Active Post-Market Risk Identification and Analysis program in response to section 905 of the Food and Drug Administration Amendments Act of 2007. PRISM was initiated in 2009 as one of several national vaccine safety surveillance systems deployed during the H1N1 influenza pandemic. PRISM was integrated into the FDA Sentinel Initiative in September 2010. PRISM has been used on multiple occasions to evaluate for vaccine-adverse events, such as the risk of intussusception following rotavirus vaccination, and the risk of febrile seizure among children receiving the trivalent inactivated influenza vaccine.

The PRISM distributed database covers more than 171 million individuals in a number of data partner organizations. The database is enhanced by linkages to State-wide registries and birth registries. PRISM is being used to develop broad-based signal detection tools that can be used to further evaluate vaccine safety. There are currently several active vaccine protocol-based assessments underway. More information can be found at: *http://www.mini-sentinel.org/assessments/medical_events/default.aspx.*

The workshop will bring together other government agencies, academia, industry, and other stakeholder participants involved in vaccine development and safety. The goal of the workshop is to present and discuss the current capabilities of PRISM. Topics include: (1) The available data infrastructure, (2) methods, and (3) tools. In addition, a few representative examples of PRISM studies will be presented to demonstrate the program's success in safety signal refinement and evaluation and informing the regulatory process. There will also be a discussion of possible future directions for PRISM.

Registration: Please visit the following Web site to register for the workshop by November 23, 2016, midnight Eastern Standard Time: *https://www.eventbrite.com/e/the-sentinel-post-licensure-rapid-immunization-safety-monitoring-prism-system-public-workshop-tickets-22494636062.* There is no registration fee for the public workshop. Early registration is recommended because seating is limited. Registrants will receive confirmation once they have been accepted. FDA may limit the number of participants from each organization based on space limitations. Registration on the day of the public meeting will be provided on a space available basis beginning at 8:30 a.m. Those who are unable to attend the meeting in person can register to view a live Web cast of the meeting. You will be asked to indicate in your registration if you plan to attend in person or via the Web cast. FDA will post the agenda approximately 5 days before the workshop at *http://www.fda.gov/BiologicsBloodVaccines/NewsEvents/WorkshopsMeetingsConferences/ucm490175.htm.*

If you need special accommodations because of disability, please contact Chris Nguyen (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

Transcripts: Please be advised that as soon as possible after a transcript of the public workshop is available, it will be accessible at: *http://www.fda.gov/BiologicsBloodVaccines/NewsEvents/WorkshopsMeetingsConferences/ucm490175.htm.*

Dated: August 26, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–21046 Filed 8–31–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–1660]

Microbiology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Microbiology Devices Panel of the Medical Devices Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on October 5, 2016, from 8 a.m. to 6 p.m.

ADDRESSES: Gaithersburg Holiday Inn, Ballroom, Two Montgomery Village Ave., Gaithersburg, MD 20879. The hotel's telephone number is 301–948–8900. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.* You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2016–N–1660 for "Microbiology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Aden Asefa, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2648, Silver Spring, MD 20993, *aden.asefa@fda.hhs.gov,* 301–796–0400, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On October 5, 2016, during session I, the topic to be addressed will be reclassification of quantitative Cytomegalovirus (CMV) viral load devices from class III (Premarket approval) to class II (510(k)). A nucleic acid-based in vitro diagnostic device for the quantitation of CMV viral load, within the context of transplant patient management, is a post-amendment device classified into class III under section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)(1)). To date, the following product code has been established for CMV viral load devices: PAB (Cytomegalovirus (CMV) DNA Quantitative Assay). During session II, the topics to be addressed include appropriate initial classification for qualitative or quantitative viral load devices for Epstein-Barr virus (EBV), BK virus (BK), JC virus (JCV), Human Herpesvirus 6 (HHV6), and Adenovirus infections. FDA is seeking expert recommendations to assess the potential risks and benefits of these devices when used in patients following solid-organ or stem cell transplantation.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before September 29, 2016. Oral presentations from the public will be scheduled on October 5, 2016, between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before September 21, 2016. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by September 22, 2016.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA is establishing a docket for public comment on this document. The docket number is FDA–2016–N–1660. The docket will close on November 9, 2016. Comments received on or before September 21, 2016, will be provided to the committee. Comments received after that date will be taken into consideration by the Agency.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Artair Mallett at *Artair.Mallett@fda.hhs.gov* or 301–796–9638, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 26, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–21045 Filed 8–31–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Advisory Committee; Endocrinologic and Metabolic Drugs Advisory Committee, Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; renewal of advisory committee.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Endocrinologic and Metabolic Drugs Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Endocrinologic and Metabolic Drugs Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until August 27, 2018.

DATES: Authority for the Endocrinologic and Metabolic Drugs Advisory Committee will expire on August 27, 2016, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: LaToya Bonner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, *EMDAC@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 102–3.65 and approval by the Department of Health and Human Services pursuant to 45 CFR part 11 and by the General Services Administration, FDA is announcing the renewal of the Endocrinologic and Metabolic Drugs Advisory Committee. The committee is a discretionary Federal advisory committee established to provide advice to the Commissioner. The Endocrinologic and Metabolic Drugs Advisory Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and, as required, any other product for which FDA has regulatory responsibility.

The Committee reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of endocrine and metabolic disorders, and makes appropriate recommendations to the Commissioner of Food and Drugs.

The Committee shall consist of a core of 11 voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of endocrinology, metabolism, epidemiology or statistics, and related specialties. Members will be invited to serve for overlapping terms of up to 4 years. Almost all non-Federal members of this committee serve as Special Government Employees. The core of voting members may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one non-voting member who is identified with industry interests.

Further information regarding the most recent charter and other information can be found at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/Drugs/EndocrinologicandMetabolicDrugsAdvisoryCommittee/ucm100261.htm* or by contacting the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). In light of the fact that no change has been made to the committee name or description of duties, no amendment will be made to 21 CFR 14.100.

This document is issued under the Federal Advisory Committee Act (5 U.S.C. app.). For general information related to FDA advisory committees, please visit us at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

Dated: August 26, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–21040 Filed 8–31–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Office of Public Health Support; Division of Planning, Evaluation & Research; National Native Health Research Training Initiative

Announcement Type: New.

Funding Announcement Number: HHS–2017–IHS–DPER–001.

Catalog of Federal Domestic Assistance Number: 93.933.

Key Dates:

Application Deadline Date: October 30, 2016.

Approximate Review Date: November 2–4, 2016.

Earliest Anticipated Start Date: November 15, 2016.

Proof of Non-Profit Status Due Date: October 30, 2016.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) Office of Public Health Support (OPHS), Division of Planning, Evaluation and Research (DPER), is accepting applications for one new cooperative agreement for the National Native Health Research Training Initiative. This initiative will help build capacity and disseminate new and best practices for American Indian and Alaska Native (AI/AN) health research and promote Tribally-driven research activity through a variety of educational and training opportunities. Focus will be on the promotion of health research and related opportunities for AI/AN students, highlighting promising practices and practice-based approaches to improving the health of AI/AN people, and culture-based approaches to reducing health disparities between AI/AN people and the U.S. population. Other areas will focus on resilience and protective factors and their role in AI/AN health outcomes, innovative and culturally-based approaches to improving the health of AI/AN youth, and dissemination of study findings in AI/AN health science research to investigators and providers working in or with Tribal communities as well as Tribal leaders and health officials. Activities will include the planning, coordination, and hosting of research meetings and conferences, webinars, hosting of a Web site/Web page for dissemination of AI/AN health science research information, and other activities to be determined. This IHS activity is authorized under the Snyder Act, codified at 25 U.S.C. 13; the Transfer Act, codified at 42 U.S.C. 2001; the Consolidated Appropriations Act, 2012, Public Law 112–74 and the Continuing Appropriations Resolution, 2013, Public Law 112–175. This program is described in the Catalog of Federal Domestic Assistance under 93.933.

Background

The AI/AN populations have long experienced poorer health status compared to other Americans. Although major gains in reducing health disparities were made during the last half of the twentieth century, most gains stopped by the mid-1980s (Trends in Indian Health 1998–99) and a few diseases, *e.g.,* diabetes, worsened. "All Indian" rates contain marked variation among the "IHS Areas" or regions (Regional Differences in Indian Health 2002–2003); variation by Tribe exists within Areas as well. The Trends and Regional Differences reference can be found on the IHS Web site at *http://www.ihs.gov/dps/publications/.* The daunting task confronting Tribes, research scientists, and health programs is to reduce the disparities among and within areas and Tribes. Factors known to contribute to health status and disparities are complex, and include underlying biology, physiology, and epigenetics, as well as ethnicity, culture, socioeconomic status, gender/sex, age, geographical access to care, and levels of insurance.

Additional factors known to contribute to health status and disparities include:

1. Family, home, and work environments;
2. general or culturally specific health practices;
3. social support systems;
4. lack of access to culturally-appropriate health care; and
5. attitudes and beliefs about health.

Health disparities of AI/ANs may also reflect a lack of in depth research relevant to improving their health status. Many AI/ANs also distrust research for historical reasons. One approach that combats this distrust is to ensure that Tribes are managing partners in training and research that involves them, as for example in community-based participatory research (CBPR) (*i.e.,* a collaborative research process between researchers and community representatives). This approach is especially helpful to design both training relevant to researchers from Tribal communities and research relevant to health needs of the communities. Another approach is increasing the number of AI/AN scientists and growing the intellectual community of researchers working with AIAN health research issues.

DPER has the responsibility of promoting health research to help improve the health status of AI/ANs. The development of AI/AN scientists and scientist-practitioners and enhancing the ability of Tribes to participate in and initiate their own research projects is a key part of improving quality and delivery of health services. Scientific meetings, conferences, and other training opportunities will support AI/AN faculty and student development and promote participatory collaboration between Tribes and the academic community. Such meetings and other educational approaches will provide opportunities for Tribes and the academic community to learn about resilience and protective factors and their role in AI/AN health outcomes, culture-based prevention, intervention, and treatment modalities, and other research that may help improve health outcomes.

Objectives

A. To increase opportunities for AI/AN scientists and health professionals—Offering development and training opportunities to AI/AN scientists, students, and health professionals and to provide a means for the dissemination of biomedical, clinical, behavioral and health science research that is responsive to the needs of the AI/AN community and the goals of this initiative. The grantee will develop regular (at least annual) conference training and practice sharing opportunities for scientists, students, and health professionals to learn and share findings from scientifically meritorious research projects as well as exploration of methods for further study and evaluation of practice-based projects. The grantee will also support health science education and professional development projects designed to introduce and further develop research skills of AI/AN students, faculty, health professionals, and community members.

B. To enhance Tribal-academic collaborations and improve the ability of Tribes to utilize research findings—Recent CBPR projects suggests that AI/AN communities can work collaboratively with health researchers to further the research needs of AI/ANs. Fully utilizing all cultural and scientific knowledge, strengths, and competencies, such partnerships can lead to better understanding of the biological, genetic, behavioral, psychological, cultural, social, and economic factors affecting health status of AI/ANs and support the development and evaluation of interventions to improve their health status. The grantee will develop training opportunities to inform and educate Tribal leaders and health personnel about health research methods, findings, and best practices in partnering with academic investigators in pursuit of research projects designed to meet the needs and advance the health care of AI/AN communities.

C. To reduce health disparities—Research suggests that enhancing protective factors can be as effective as reducing risk factors in improving health outcomes, particularly among AI/ANs. A better understanding of protective factors among AI/ANs could be helpful in reducing health disparities. Anecdotal evidence suggests that AI/AN ceremonial and other cultural practices may help to ameliorate major harms and disruptions over the centuries. The grantee will promote health research methods designed to better understand the protective effects of Traditional Indian Medicine, Indigenous Knowledge, Traditional Ecological Knowledge, et al., on AI/AN health. The grantee will also identify and disseminate examples of successful co-delivery of Traditional cultural practices with western biomedical services.

The annual conference will provide critical exposure to health research opportunities for both students and researchers. The applicant must provide opportunities for potential and new AI/AN students to learn the fundamentals of health research, provide exposure to cutting-edge research, and interaction with established AI/AN scientists to explore mentorship and funding opportunities. Mentorship is vital to success in the research field, especially for AIAN students, and mentorship is often not available at the geographic location where the student is enrolled. Therefore it is paramount that this opportunity occurs at least annually. New scientific research funding opportunities that become available will be explored and wide dissemination of this information will be given to Tribes, Tribal organizations, and Tribal-academic partnerships so they will have the opportunity to apply for this kind of funding.

Purpose

The purpose of this cooperative agreement is to fund a national membership organization of AI/AN scientists and/or researchers and students to further the IHS research program objectives with expanded outreach and education efforts for AI/AN students, faculty, and health professionals. This announcement requests applications to propose activities including, but not limited to, an annual national training opportunity in health research methods and findings of importance to AI/AN people and communities. Other activities may also be considered in coordination with the main annual event. This is an important annual event that will bring together health researchers and key stakeholders to share recent research findings, learn new research methodologies and best practices in service delivery, and learn about human research protections and opportunities for research funding. The annual research training event will be the primary event for AI/AN researchers and students to present their findings and obtain feedback from other researchers as well as Tribal health professionals. Students also have the opportunity to select and begin working with new mentors. This event will be held by a national membership organization of AI/AN scientists and/or researchers in collaboration with IHS in facilitating a forum designed to improve the health research capacity of AI/AN Tribes and researchers. The organization and continuity of annual national training events is vital to the morale of the health research and larger health professional field working for the benefit of the Tribes and other (including urban) AI/AN people.

Pre-Conference Grant Requirements

The awardee is required to comply with the "HHS Policy on Promoting Efficient Spending: Use of Appropriated Funds for Conferences and Meeting Space, Food, Promotional Items, and Printing and Publications," dated December 16, 2013 ("Policy"), as applicable to conferences funded by grants and cooperative agreements. The Policy is available at *http://www.hhs.gov/grants/contracts/contract-policies-regulations/conference-spending/.*

The awardee is required to:

Provide a separate detailed budget justification and narrative for each conference anticipated. The cost categories to be addressed are as follows: (1) Contract/Planner, (2) Meeting Space/Venue, (3) Registration Web site, (4) Audio Visual, (5) Speakers Fees, (6) Non-Federal Attendee Travel, (7) Registration Fees, (8) Other (explain in detail and cost breakdown). For additional questions please contact Mose Herne on (301) 443–1549 or email him at *mose.herne@ihs.gov.*

II. Award Information

Type of Award

Cooperative Agreement.

Estimated Funds Available

The total amount of funding identified for the current fiscal year (FY) 2017 is approximately $225,000. The award amount is anticipated to be between $100,000 and $225,000. The amount of funding available for competing and continuation awards issued under this announcement are subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

One award will be issued under this program announcement.

Period of Performance

The project period is for five years and will run consecutively from November 15, 2016 to November 14, 2021.

Cooperative Agreement

Cooperative agreements awarded by the HHS are administered under the same policies as a grant. However, the funding agency (IHS) is required to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for both IHS and the grantee. IHS will be responsible for activities listed under section A and the grantee will be responsible for activities listed under section B as stated:

Substantial Involvement Description for Cooperative Agreement

A. IHS Programmatic Involvement

The IHS assigned program official will monitor the overall progress of the awardee's execution of the requirements of the award as well as their adherence to the terms and conditions of the cooperative agreements. This includes providing guidance for required reports, development of agendas, tools and other products, and technical assistance with evaluation and overcoming any performance issues encountered. The IHS assigned program official must approve all presentations, electronic content, and other materials, including mass emails, developed by awardee pursuant to these awards and any supplemental awards prior to the presentation or dissemination of such materials to any party.

IHS staff will provide support for the award as follows:

i. The IHS assigned program official will work in partnership with the awardee in all decisions involving strategy, hiring of grantee personnel, deployment of resources, release of public information materials, quality assurance, coordination of activities, any training, reports, budget, and evaluation. Collaboration includes agenda setting, analysis, and reporting.

ii. The IHS assigned program official will work closely with all participating IHS health services/programs, as appropriate, to coordinate award activities.

iii. The IHS assigned program official will coordinate the following:

- Discussion and release of any and all special grant conditions upon fulfillment.
- Monthly scheduled conference calls.
- Appropriate dissemination of required reports to each participating program.

iv. The IHS will, jointly with the awardee, plan and set an agenda for each of the conference(s) mentioned in this announcement that:

- Shares the training and/or accomplishments.
- Fosters collaboration amongst the participating program offices, agencies, and/or departments.
- Increases visibility for the partnership between the awardee and the IHS.

v. IHS will provide guidance in addressing deliverables and requirements.

vi. IHS will provide guidance in preparing articles for publication and/or presentations of program successes, lessons learned, and new findings.

vii. IHS will communicate via monthly conference calls, individual or collective site visits, and meetings.

viii. IHS will provide technical assistance to the entity as requested.

ix. IHS staff may, at the request of the entity's board, participate on committees and may recommend topics for discussion.

B. Grantee Cooperative Agreement Award Activities

The awardee is responsible for the following:

i. To succinctly and independently address the requirements for the award.

ii. To facilitate a forum or forums at which concerns can be heard that are representative of Tribal governments in the area of health research.

iii. To establish relationships with other national Indian organizations, with professional groups, and with Federal, State, and local entities and universities or medical centers supportive of AI/AN health research programs.

iv. To improve and expand access for AI/AN Tribal governments to health research programs within HHS.

v. To disseminate timely health research information to Tribal governments, AI/AN health boards, other national Indian organizations, professional groups, Federal, State, and local entities.

vi. To reach out to and educate academic and research institutions, and Federal, state and local agencies on the needs and procedures for the conduct of health research in Indian Country, and to promote the academic recognition of the rights of Tribal governments to control their own research and to own their research data.

vii. To establish an appropriate standard of practice for health research concerning AI/AN that addresses the relationship between academic freedom, government procedures, and Tribal rights.

viii. Attendance at regularly scheduled meetings between awardee and the IHS assigned program official, evidenced by meeting minutes which highlight the awardee's specific involvement and participation.

ix. The annual national research conference and other training activities as proposed by the grantee and approved by the program official.

x. Copies of all promotional and educational materials provided to Tribal programs and other projects (electronic form and one hard copy).

xi. Copies of all promotional materials provided to media and other outlets (electronic form and one hard copy).

xii. Copies of all articles published (electronic form and one hard copy).

xiii. Evidence of posting of conference and training-related information on organizational Web site(s).

xiv. Workshops

- The awardee may provide teleconference and/or webinar workshops on health research, subject to approval from the IHS assigned program official.
- The awardee shall conduct workshops and/or presentations including, but not limited to, challenges, potential solutions, and successes in the form of promising practices of health research at one national conference (venue and content of presentations to be agreed upon by the awardee and the IHS assigned program official).

III. Eligibility Information

1. Eligibility

To be eligible for this "New Competition" under this announcement, an applicant must:

- Be 501(c)(3) non-profit entities that are national membership organizations of AI/AN health researchers or scientists.

Organizations claiming non-profit status must submit a copy of the 501(c)(3) Certificate with your application submission by the Application Deadline Date listed under Key Dates on page one of this announcement.

- Demonstrate organizational expertise and successful experience in:
  - ○ Conducting previous national research or scientific conferences.
  - ○ Promoting and supporting AI/AN health research and science education and training.

○ Providing evidence of at least five years of successful experience providing health research and science education and outreach on a national scale.

Note: Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required such as Tribal resolutions, proof of non-profit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the "Estimated Funds Available" section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the Division of Grants Management (DGM) of this decision.

Proof of Non-Profit Status

Organizations claiming non-profit status must submit proof. A copy of the 501(c)(3) Certificate must be received with the application submission by the Application Deadline Date listed under the Key Dates section on page one of this announcement.

An applicant submitting any of the above additional documentation after the initial application submission due date is required to ensure the information was received by the IHS by obtaining documentation confirming delivery (*i.e.* FedEx tracking, postal return receipt, etc.).

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *http://www.ihs.gov/dgm/funding/*.

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–2114.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - ○ SF–424, Application for Federal Assistance.
  - ○ SF–424A, Budget Information—Non-Construction Programs.
  - ○ SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single spaced and not exceed five pages).
- Project Narrative (must not exceed 20 pages).
  - ○ Background information on the organization.
  - ○ Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Letter of Support from organization's Board of Directors.
- 501(c)(3) Certificate.
- Biographical sketches for all Key Personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required in order to receive IDC).
- Organizational Chart (optional).
- Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).

Acceptable forms of documentation include:

○ Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or

○ Face sheets from audit reports. These can be found on the FAC Web site: *http://harvester.census.gov/sac/dissem/accessoptions.html?submit=Go+To+Database*.

Public Policy Requirements

All Federal-wide public policies apply to IHS grants and cooperative agreements with exception of the discrimination policy.

Requirements for Project and Budget Narratives

A. Project Narrative

This narrative should be a separate Word document that is no longer than 20 pages and must: be single-spaced, type written, have consecutively numbered pages, use black type not smaller than 12 characters per one inch, and printed on one side only of standard size 8½″ × 11″ paper.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement), and place all responses and required information in the correct section (noted below), or they will not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming more familiar with the grantee's activities and accomplishments prior to this possible cooperative agreement award. If the narrative exceeds the page limit, only the first 20 pages will be reviewed. The 20-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative. The page limitations below are for each narrative and budget submitted.

Part A: Program Information (3 Page Limitation)

Section 1: Needs

Describe your organization's understanding of the needs of this cooperative agreement and how your organization has the experience to provide outreach and education efforts regarding the pertinent changes and updates in health research.

Part B: Program Planning and Evaluation (12 Page Limitation)

Section 1: Program Plans

Describe fully and clearly how the national AI/AN membership organization plans to address the requirements and tasks.

Section 2: Program Evaluation

Describe fully and clearly how your planned outreach and education efforts will impact changes in knowledge and awareness in Tribal health professionals and among AI/AN health researchers and health research students. Describe how your organization will measure/monitor/track these impacts; include existing or planned new data sources.

Part C: Program Report (5 Page Limitation)

Section 1: Identify and describe your organization's significant program activities and achievements over the past five years associated with the goals of this agreement, including improved delivery of quality health research education and the growth of the national community of AI/AN health researchers. Provide a comparison of the actual accomplishments to the goals established for the project period or, if applicable, provide justification for the lack of progress.

B. Budget Narrative (5 Page Limitation)

This narrative must include a line item budget with a narrative justification for all expenditures identifying reasonable allowable, allocable costs necessary to accomplish the goals and objectives as outlined in the project narrative. Budget should match the scope of work described in the project narrative.

3. Submission Dates and Times

Applications must be submitted electronically through *Grants.gov* by 11:59pm, Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the electronic application process, contact *Grants.gov* Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Gettys, (*Paul.Gettys@ihs.gov*) DGM Grant Systems Coordinator, by telephone at (301) 443–2114 or (301) 443–5204. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant/cooperative agreement will be awarded.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the "Find Grant Opportunities" link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the *http://www.Grants.gov* Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If the applicant needs to submit a paper application instead of submitting electronically through *Grants.gov*, a waiver must be requested. A written waiver request must be sent to *GrantsPolicy@ihs.gov* with a copy to *Robert.Tarwater@ihs.gov*. The waiver must (1) be documented in writing (emails are acceptable), before submitting a paper application, and (2) include clear justification for the need to deviate from the required electronic grants submission process.

Once the waiver request has been approved, the applicant will receive a confirmation of approval email containing submission instructions and the mailing address to submit the application. A copy of the written approval must be submitted along with the hardcopy of the application that is mailed to DGM. Paper applications that are submitted without a copy of the signed waiver from the Senior Policy Analyst of the DGM will not be reviewed or considered for funding. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding. Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact *Grants.gov* Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting *Grants.gov*, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to fifteen working days.
- Please use the optional attachment feature in *Grants.gov* to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this funding announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. The DGM will download the application from *Grants.gov* and provide necessary copies to the appropriate agency officials. Neither the DGM nor OPHS will notify applicants that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies your entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, you may access it through *http://fedgov.dnb.com/webform*, or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended ("Transparency Act"), to report information on sub-awards. Accordingly, all IHS grantees must notify potential first-tier sub-recipients that no entity may receive a first-tier sub-award unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and your SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: *http://www.ihs.gov/dgm/policytopics/*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 20 page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See "Multi-year Project Requirements" at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 70 points is required for funding. Points are assigned as follows:

1. Criteria

A. Introduction and Need for Assistance (15 Points)

(1) Describe your organization's understanding of the needs of this cooperative agreement.

(2) Describe the organization's current operations as related to the spectrum of health research needs and dissemination of health research information and support to Tribes, AI/AN communities, and Tribal colleges and universities among others. Include information regarding technologies currently used (*i.e.,* hardware, software, services, Web sites, etc.), and identify the source(s) of technical support for those technologies (*i.e.,* in-house staff, contractors, vendors, etc.). Include information regarding how long the applicant has been operating and its length of association/partnerships with Area health boards or other organizations, etc. [historical collaboration].

(3) Describe the organization's current technical assistance ability. Include what programs and services are currently provided, programs and services projected to be provided, and describe any memorandums of agreement with other national Indian organizations.

(4) Describe the population to be served by the proposed project. Are they hard to reach? Are there barriers? Identify all previous IHS funds received, dates of funding and summaries of the projects' accomplishments. State how previous funds facilitated education, training and technical assistance nationwide for AI/ANs.

(5) Describe collaborative and supportive efforts with Tribal Epidemiology Centers, NARCH grantees, university centers of AI/AN health research.

(6) Explain the need/reason for your proposed projects by identifying specific gaps or weaknesses in health research training or infrastructure that will be addressed by the proposed projects. Describe the effect of the proposed project on current programs (*i.e.,* Federally-funded, State funded, etc.)

B. Project Objective(s), Work Plan and Approach (40 Points)

(1) Identify the proposed project objective(s) for the project, as applicable, addressing the following:

- Measurable and (if applicable) quantifiable.
- results oriented.
- time-limited.

Example: Issue save the date notices, calls for papers, conference publicity, and registration information. Goals must be clear and concise.

(2) Address the extent to which the proposed projects will provide, improve, or expand health research that address the need(s) of the target population. Submit a work plan in the Appendix that:

- Provides the action steps on a timeline for accomplishing each of the projects' proposed objective(s).
- Identifies who will perform the action steps.
- Identifies who will supervise the action steps taken.
- Identifies what tangible products will be produced during and at the end of the proposed project objective(s).
- Identifies who will accept and/or approve work products during the duration of the proposed projects and at the end of the proposed projects.
- Identifies any training that will take place during the proposed projects and who will be attending the training.
- Identifies evaluation activities proposed in the work plans.

(3) If consultants or contractors will be used during the proposed project, please include the following information in their scope of work (or note if consultants/contractors will not be used):

- Educational requirements.
- Desired qualifications and work experience.
- Expected work products to be delivered on a timeline.

If a potential consultant/contractor has already been identified, please include a resume in the Appendix.

C. Program Evaluation (20 Points)

Each proposed objective requires an evaluation component to assess its progress and ensure its completion. Also, include the evaluation activities in the work plan.

Describe the proposed plan to evaluate both outcomes and process. Outcome evaluation relates to the results identified in the objectives, and process evaluation relates to the work plan and activities of the project.

(1) For outcome evaluation, describe:

- The criteria for determining success of each objective.
- The data to be collected which will determine whether the objective was met.
- Data collection intervals and frequency.
- Who will collect the data and their qualifications.
- How the data will be analyzed.
- How results of evaluation will be used.

(2) For process evaluation, describe:

- How the projects will be monitored and assessed for potential problems and needs for quality improvements.
- Who will be responsible for monitoring and managing project improvements based on results of ongoing process improvements and their qualifications.
- How ongoing monitoring will be used to improve the project's performance.
- Products that might be developed and how they might lend themselves to replication by others.
- How the organization will document what is learned throughout the projects' grant periods.

(3) Describe any evaluation efforts planned after the grant period has ended.

(4) Describe the ultimate benefit to the AI/AN population served by the applicant organization that will be derived from these projects.

D. Organizational Capabilities, Key Personnel and Qualifications (15 Points)

This section outlines the broader capacity of the organization to complete the project outlined in the work plan. It includes the identification of personnel responsible for completing tasks and the chain of responsibility for successful completion of the projects outlined in the work plans.

(1) Describe the organizational structure of the applicant.

(2) Describe the ability of the organization to manage the proposed project. Include information regarding similarly sized projects in scope and financial assistance, as well as other conferences and projects successfully completed.

(3) Describe equipment (*i.e.,* fax machine, phone, computer, etc.) and facility space (*i.e.,* office space) that will be available for use during the proposed projects. Include information about any equipment not currently available and will be purchased through the cooperative agreement.

(4) List key personnel who will work on the projects. Include title used in the work plans. In the Appendix, include position descriptions and resumes for all key personnel. Position descriptions should clearly describe each position and duties, indicating desired qualifications and experience requirements related to the proposed project. Resumes must indicate that the proposed staff member is qualified to carry out the proposed project activities. If a position is to be filled, indicate that information on the proposed position description.

(5) If personnel are to be only partially funded by this cooperative agreement, indicate the percentage of time to be allocated to this project and identify the resources used to fund the remainder of the individual's salary.

E. Categorical Budget and Budget Justification (10 Points)

This section should provide a clear estimate of the program costs and justification of expenses for the entire period of the cooperative agreement. The budget and budget justification should be consistent with the tasks identified in the work plans.

(1) Provide a categorical budget for the 12-month budget period requested by the project.

(2) If IDC are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the rate agreement in the Appendix. *See Section VI. Award Administration Information, 3. Indirect Costs.*

(3) Provide a narrative justification explaining why each line item is necessary/relevant to the proposed project. Include sufficient costs and other details to facilitate the determination of cost (*i.e.,* equipment specifications, etc.).

Multi-Year Project Requirements

Projects requiring second, third, fourth, and/or fifth year must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project.

Additional Documents Can Be Uploaded as Appendix Items in *Grants.gov*

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart(s) highlighting proposed project staff and their supervisors as well as other key contacts within the organization and key community contacts.
- Additional documents to support narrative (*i.e.,* data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria in this funding announcement. The ORC could be composed of both Tribal and Federal reviewers appointed by the IHS program to review and make recommendations on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Applicants will be notified by DGM, via email, to outline minor missing components (*i.e.,* budget narratives, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval (80 points) and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC outlining the weaknesses and strengths of their application submitted. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page (SF–424) of the application. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved but Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be "Approved", but were not funded due to lack of funding, will have their applications held by DGM for a period of one year. If additional funding becomes available during the course of FY 2016 the approved but unfunded application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS Grants Management Official announcing to the Project Director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements for HHS Awards, located at 45 CFR Part 75.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Uniform Administrative Requirements for HHS Awards, "Cost Principles," located at 45 CFR part 75, subpart E.

E. Audit Requirements:

- Uniform Administrative Requirements for HHS Awards, "Audit Requirements," located at 45 CFR part 75, subpart F.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under "Agency Contacts" or the main DGM office at (301) 443–5204.

4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports are required to be submitted electronically by attaching them as a "Grants Note" in the GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semiannually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget period/period of performance.

B. Financial Reports

Federal Financial Report FFR (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Division of Payment Management, HHS at: *http://www.dpm.psc.gov.* It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Post Conference Grant Reporting

The following requirements were enacted in Section 3003 of the Consolidated Continuing Appropriations Act, 2013, and Section 119 of the Continuing Appropriations Act, 2014; *Office of Management and Budget Memorandum M–12–12:* All HHS/IHS awards containing grants funds allocated for conferences will be required to complete a mandatory post award report for all conferences. Specifically: The total amount of funds provided in this award/cooperative agreement that were spent for "Conference X", must be reported in final detailed actual costs *within 15 days of the completion of the conference.* Cost categories to address should be: *(1) Contract/Planner, (2) Meeting Space/Venue, (3) Registration Web site, (4) Audio Visual, (5) Speakers Fees, (6) Non-Federal Attendee Travel, (7) Registration Fees, (8) Other.*

D. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: (1) The project period start date was October 1, 2010 or after and (2) the primary awardee will have a $25,000 sub-award obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Policy Web site at: *http://www.ihs.gov/dgm/policytopics/.*

E. Compliance With Executive Order 13166 Implementation of Services

Accessibility Provisions for All Grant Application Packages and Funding Opportunity Announcements

Recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age and, in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see *http://www.hhs.gov/ocr/civilrights/resources/laws/revisedlep.html.* The HHS Office for Civil Rights also provides guidance on complying with civil rights laws enforced by HHS. Please see *http://www.hhs.gov/ocr/civilrights/understanding/section1557/index.html;* and *http://www.hhs.gov/ocr/civilrights/understanding/index.html.* Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see *http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html.* Please contact the HHS Office for Civil Rights for more information about obligations and prohibitions under Federal civil rights laws at *http://www.hhs.gov/ocr/office/about/rgn-hqaddresses.html* or call 1–800–368–1019 or TDD 1–800–537–7697. Also note it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at *http://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53.*

Applicants will be required to sign the HHS–690 Assurance of Compliance form located at *http://www.hhs.gov/sites/default/files/forms/hhs-690.pdf* and send the original form to: U.S. Department of Health and Human Services, Office of Civil Rights, 200 Independence Ave. SW., Washington, DC 20201.

F. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS) before making any award in excess of the simplified acquisition threshold (currently $150,000) over the period of performance. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. IHS will consider any comments by the applicant, in addition to other information in FAPIIS in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive Federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10,000,000 for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, effective January 1, 2016, the IHS must require a non-federal entity or an applicant for a Federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of Federal criminal law involving fraud, bribery,or gratuity violations potentially affecting the Federal award.

Submission is required for all applicants and recipients, in writing, to the IHS and to the HHS Office of Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. 45 CFR 75.113.

Disclosures must be sent in writing to:

U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Mr. Robert Tarwater, Director, 5600 Fishers Lane, Mailstop 09E70, Rockville, Maryland 20857, (Include "Mandatory Grant Disclosures" in subject line), Ofc: (301) 443–5204, Fax: (301) 594–0899, Email: *Robert.Tarwater@ihs.gov.*

AND

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW., Cohen Building, Room 5527, Washington, DC 20201, URL: *http://oig.hhs.gov/fraud/reportfraud/index.asp,* (Include "Mandatory Grant Disclosures" in subject line), Fax: (202) 205–0604 (Include "Mandatory Grant Disclosures" in subject line) or Email: *MandatoryGranteeDisclosures@oig.hhs.gov.*

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371. Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Mr. Mose Herne, MPH, MS, IHS Research Director, 5600 Fishers Lane, Mailstop 09E10D, Rockville, Maryland 20857, Telephone: (301) 443–1549, Fax: (301) 443–0114, Email: *mose.herne@ihs.gov.*

2. Questions on grants management and fiscal matters may be directed to: Ms. Patience Musikikongo, DGM, Grants Management Specialist, 5600 Fishers Lane, Mailstop 09E70, Rockville, Maryland 20857, Telephone: (301) 443–2059, Fax: (301) 443–9602, Email: *Patience.Musikikongo@ihs.gov.*

3. Questions on systems matters may be directed to: Mr. Paul Gettys, Grant Systems Coordinator, 5600 Fishers Lane, Mail Stop 09E70, Rockville, MD 20857, Phone: (301) 443–2114; or the DGM main line (301) 443–5204, Fax: (301) 443–9602, Email: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Elizabeth A. Fowler,

Deputy Director for Management Operations, Indian Health Service.

[FR Doc. 2016–21049 Filed 8–31–16; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

[OMB Control Number 0917–0006]

Request for Public Comment: 30-Day Proposed Information Collection: Application for Participation in the IHS Scholarship Program

AGENCY: Indian Health Service, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, which requires 30 days for public comment on proposed information collection projects, the Indian Health Service (IHS) is submitting to the Office of Management and Budget (OMB) a request for an extension for this collection, titled, "Application for Participation in the IHS Scholarship Program (OMB Control Number 0917–0006)," with an expiration date of September 30, 2016. This proposed information collection project was previously published in the **Federal Register** (81 FR 44030) on July 6, 2016, and allowed 60 days for public comment, as required by 3506(c)(2)(A). The IHS received no comments regarding this collection. The purpose of this notice is to allow 30 days for public comment to be submitted directly to OMB.

Proposed Collection: Title: "Application for Participation in the IHS Scholarship Program," OMB Control No. 0917–0006. *Type of Information Collection Request:* Extension of the currently approved information collection "Application for Participation in the IHS Scholarship Program," OMB Control No. 0917–0006. *Form Number(s):* IHS–856–3, IHS–856–5 through 856–19, IHS–856–21 through 856–24, IHS–817, and IHS–818 are retained for use by the IHS Scholarship Program (IHSSP) as part of this current information collection request. Reporting forms are found on the IHS Web site at *www.ihs.gov/scholarship. Need and Use of Information Collection:* The IHS Scholarship Branch needs this information for program administration and uses the information to: solicit, process, and award IHS Pre-graduate, Preparatory, and/or Health Professions Scholarship recipients; monitor the academic performance of recipients; and to place recipients at payback sites. The IHSSP application is electronically available on the internet at the IHS Web site at: *https://www.ihs.gov/scholarship/applynow/. Affected Public:* Individuals, not-for-profit institutions and State, local or Tribal Governments. *Type of Respondents:* Students pursuing health care professions.

The table below provides: Types of data collection instruments, Estimated number of respondents, Number of responses per respondent, Annual number of responses, Average burden hour per response, and Total annual burden hours.

Data collection instrument(s)	Number of respondents	Responses per respondent	Total annual response	Burden hour per response *	Annual burden hours
Faculty/Employer Evaluation (IHS–856–3)	1,500	2	3,000	0.42 (25 min)	1250
Delinquent Federal Debt (IHS–856–5)	1,500	1	1,500	0.13 (8 min)	200
Course Curriculum Verification (IHS–856–6)	1,500	1	1,500	0.70 (42 min)	1,050
Verification of Acceptance or Decline of Award (IHS–856–7).	500	1	500	0.13 (8 min)	67
Recipient's Initial Program Progress Report (IHS–856–8)	1,200	1	1,200	0.13 (8 min)	160
Notification of Academic Problem (IHS–856–9)	50	1	50	0.13 (8 min)	7
Change of Status (IHS–856–10)	50	1	50	.045 (25 min)	21
Request for Approval of Deferment (IHS–856–11)	20	1	20	0.13 (8 min)	3
Preferred Placement (IHS–856–12)	150	1	150	0.50 (30 min)	75
Notice of Impending Graduation (IHS–856–13)	170	1	170	0.17 (10 min)	28
Notification of Deferment Program (IHS–856–14)	20	1	20	0.13 (8 min)	3
Placement Update (IHS–856–15)	170	1	170	0.18 (11 min)	31
Annual Status Report (IHS–856–16)	200	1	200	0.25 (15 min)	50
Extern Site Preference Request (IHS–856–17)	300	1	300	0.13 (8 min)	40
Request for Extern Travel Reimbursement (IHS–856–18)	150	1	150	0.10 (6 min)	15
Lost Stipend Payment (IHS–856–19)	50	1	50	0.13 (8 min)	7
Summer School Request (IHS–856–21)	100	1	100	0.10 (6 min)	10
Change of Name or Address (IHS–856–22)	20	1	20	0.13 (8 min)	3
Request for Credit Validation (IHS–856–23)	30	1	30	0.10 (6 min)	3
Faculty/Advisor Evaluation (IHS–856–24)	1,500	2	3,000	0.42 (25 min)	1,250
Scholarship Program Agreement (IHS–817)	175	1	175	0.16 (10 min)	29
Health Professions Contract (IHS–818)	225	1	225	0.16 (10 min)	38
Total			12,580		4,340

* For ease of understanding, burden hours are also provided in actual minutes.

There are no direct costs to respondents other than their time to voluntarily complete the forms and submit them for consideration. The estimated cost in time to respondents, as a group, is $46,386 [4,303 burden hours × $10.78 per hour (2016 GS–3 hourly base pay rate)]. This total dollar amount is based upon the number of burden hours per data collection instrument, rounded to the nearest dollar.

Request for Comments: Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send Requests for Further Information: For the proposed collection, or requests to obtain a copy of the data collection instrument(s) and instructions, send to: Robert E. Pittman, BPharm, MPH, Acting Chief, Scholarship Branch Director, Division of Health Professions Support, Indian Health Service, 5600 Fishers Lane, Mail Stop: OHR 11E53A, Rockville, MD 20857. Rockville, MD 20852, Call non-toll free (301) 443–6622, send via facsimile to (301) 443–6622, send via facsimile to (301) 443–6048, or send your email requests, and return address to: *Robert.Pittman@ihs.gov.*

Direct Your Comments to OMB: Send your comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for IHS.

Comment Due Date: Comments regarding this information collection are best assured of having full effect if received within 30 days of the date of this publication.

Dated: August 24, 2016.

Elizabeth A. Fowler,

Deputy Director for Management Operations, Indian Health Service.

[FR Doc. 2016–21048 Filed 8–31–16; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders Draft 2017–2021 Strategic Plan

AGENCY: National Institutes of Health.

ACTION: Request for comment.

SUMMARY: The National Institute on Deafness and Other Communication Disorders (NIDCD), National Institutes of Health (NIH) is requesting public comment on the draft 2017–2021 NIDCD Strategic Plan. The Strategic Plan serves as a guide to the NIDCD in prioritizing its research investment, illustrates the current state-of-the-science, and highlights recent advances in the communication sciences. The draft Plan presents a series of goals and objectives that represent the most promising research needs within the NIDCD's mission areas.

DATES: Comments will be accepted through September 30, 2016.

ADDRESSES: The draft Plan is available for download at: *https://www.nidcd.nih.gov/about/strategic-plan/2017-2021/public-comment.* Comments must be submitted electronically via the web-based form at: *https://www.nidcd.nih.gov/about/strategic-plan/2017-2021/public-comment.* The web-based form accepts text but cannot accept attachments. You will receive an electronic confirmation acknowledging receipt of your response, but will not receive individualized feedback from NIDCD on any comments.

FOR FURTHER INFORMATION CONTACT: Specific questions regarding the NIDCD draft Strategic Plan should be directed to: *NIDCDStrategicPlan@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The NIDCD mission is to conduct and support biomedical research, behavioral research, and research training in the normal and disordered processes of hearing, balance, taste, smell, voice, speech, and language. The institute also conducts and supports research and research training related to disease prevention and health promotion; addresses special biomedical and behavioral problems associated with people who have communication impairments or disorders; and supports efforts to create devices that substitute for lost and impaired sensory and communication function. To accomplish these goals, the NIDCD manages a broad portfolio of both basic and clinical research. The portfolio is organized into three program areas: Hearing and balance; taste and smell; and voice, speech, and language. The three program areas seek to answer fundamental scientific questions about normal function and disorders and to identify patient-oriented scientific discoveries for preventing, screening, diagnosing, and treating disorders of human communication.

The draft 2017–2021 NIDCD Strategic Plan has been developed over the past 12 months by NIDCD staff in consultation with scientific experts and the National Deafness and Other Communication Disorders Advisory Council. (Details of the development process are included in Appendix B of the draft Plan.) The goals listed in the draft Plan are an assessment of research areas that present the greatest scientific opportunities and public health needs over the next five years for the three program areas: Hearing and balance; taste and smell; and voice, speech and language.

The NIDCD has identified four Priority Areas that have the potential to increase our understanding of the normal and disordered processes of hearing, balance, taste, smell, voice, speech, and language and to further our knowledge in human communication sciences. They are:

- *Priority Area 1—Understanding Normal Function:* Deepen our understanding of the mechanisms underlying normal function of the systems of human communication. By defining what is normal in both animal models and humans, we can better understand mechanisms of disease.
- *Priority Area 2—Understanding Diseases and Disorders:* Increase our knowledge of the mechanisms of diseases, disorders, and dysfunctions that impair human communication and health. Understanding mechanisms that underlie diseases and disorders is an important step in developing better prevention and treatment strategies.
- *Priority Area 3—Improving Diagnosis, Treatment, and Prevention:* Develop, test, and improve diagnosis, treatment, and prevention of diseases, disorders, and dysfunctions of human communication and health. Diagnosis considers normal function and provides targets for prevention and treatment. Improvements in prevention and treatment lead to better outcomes with fewer side effects.
- *Priority Area 4—Improving Outcomes for Human Communication:* Accelerate the translation of research discoveries into practice; increase access to health care; and enhance the delivery, quality, and effectiveness of care to improve personal and public health. Scientifically-validated prevention and treatment models will lead to better personal and public health only if they are translated effectively into routine practice.

The goals presented in the Plan are a guide for:

- *Scientists:* To better understand the directions that NIDCD research may take in the future;
- *The NIDCD:* To assist in developing funding opportunity announcements and to identify projects for high program priority nomination; and
- *The Public:* To understand the state of communication sciences and to discover the scientific breakthroughs that are possible with sustained investments in biomedical research.

Responses to this request for comments are voluntary. Any personal identifiers (*e.g.,* names, addresses, email addresses, etc.) will be removed when responses are compiled. Only the de-identified comments will be made publicly available. Proprietary, classified, confidential, or sensitive information should not be included in your response. The Government reserves the right to use any non-proprietary technical information in any resultant solicitation(s).

This request for comment is for information and planning purposes only and should not be construed as a solicitation or as an obligation on the part of the Federal Government, or the NIH. The NIH does not intend to award a grant or contract to pay for the preparation of any information submitted or for the NIH's use of such information. No basis for claims against the NIH shall arise as a result of a response to this request for information or the NIH's use of such information as part of the NIDCD Strategic Plan.

The NIDCD anticipates that the finalized plan will be published on the NIDCD Web site in January 2017.

Dated: August 24, 2016.

James F. Battey, Jr.,

Director, NIDCD, National Institutes of Health.

[FR Doc. 2016–20905 Filed 8–31–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2016–0063]

Privacy Act of 1974; Department of Homeland Security/U.S. Customs and Border Protection (DHS/CBP)–022 Electronic Visa Update System (EVUS) System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to establish a new DHS system of records titled, "Department of Homeland Security/U.S. Customs and Border Protection—DHS/CBP–022 Electronic Visa Update System (EVUS) System of Records." At the same time, in accordance with 5 U.S.C. 552(j) and (k), DHS proposes to claim certain exemptions for this system. At the same time, in accordance with Privacy Act of 1974, DHS proposes to claim certain exemptions for this system. This system of records will allow the Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP) to collect and maintain records on nonimmigrant aliens who hold a passport that was issued by an identified country approved for inclusion in the EVUS program and have been issued a U.S. nonimmigrant visa of a designated category seeking to travel to the United States. The system of records will also cover records of other persons, including U.S. citizens and lawful permanent residents, whose name is provided to DHS as part of a nonimmigrant alien's EVUS enrollment. Requiring aliens holding passports of identified countries containing U.S. nonimmigrant visas of a designated category with multiple year validity will allow DHS/CBP to collect updated information. The system is used to ensure a visa holder's information remains current. The information is also used to separately determine whether any admissibility issues may need to be addressed outside the EVUS enrollment process by vetting the information against selected security and law enforcement databases at DHS, including the use of CBP's TECS (not an acronym) (DHS/CBP–011 U.S. Customs and Border Protection TECS, December 19, 2008, 73 FR 77778) and the Automated Targeting System (ATS) (DHS/CBP–006 Automated Targeting System, May 22, 2012, 77 FR 30297). In addition, ATS retains a copy of EVUS enrollment data to identify EVUS enrollees who may pose a security risk to the United States. The ATS maintains copies of key elements of certain databases in order to minimize the impact of processing searches on the operational systems and to act as a backup for certain operational systems. DHS may also vet EVUS enrollment information against security and law enforcement databases at other Federal agencies to enhance DHS's ability to determine whether the enrollee poses a security risk to the United States or, although addressed through a separate process, is admissible to the United States. The results of this vetting may inform DHS's assessment of whether the enrollee's travel poses a law enforcement or security risk and whether the proposed travel should be permitted.

This newly established system will be included in the Department of Homeland Security's inventory of record systems.

DATES: This system will be effective October 3, 2016. Comments must be received on or before October 3, 2016.

ADDRESSES: You may submit comments, identified by docket number DHS–2016–0063 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

INSTRUCTIONS: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

DOCKET: For access to the docket to read background documents or comments received, please visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Debra L. Danisek, (202) 344–1610, Acting CBP Privacy Officer, Privacy and Diversity Office, 1300 Pennsylvania Ave. NW., Washington, DC 20229. For privacy questions, please contact: Jonathan R. Cantor, (202) 343–1717, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, DHS/CBP proposes to establish a new DHS/CBP system of records titled, "DHS/CBP–022 Electronic Visa Update System (EVUS) System of Records."

DHS has developed a fully automated electronic system that enables DHS to collect biographic and other information from certain nonimmigrant aliens on a periodic basis as determined by the Secretary. Specifically, EVUS enables DHS to obtain information from individuals who hold U.S. nonimmigrant visas of a designated category in a passport issued by an identified country. By requiring nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category to enroll in EVUS, CBP will be able to collect periodic updates of biographical and other information over the length of the visa period that would otherwise not be obtained, which may assist in identifying persons who may pose a risk to the United States.

The Electronic Visa Update System is a web-based system developed to collect updated information from visa holders subject to the EVUS program. The EVUS does not change the process for obtaining a visa. However, after issuance of a visa, nonimmigrant aliens subject to the EVUS requirements would need to successfully enroll in EVUS online every two years to ensure their visa remains valid for travel to the United States. The online enrollment will be designed as a user-friendly interface that would allow other persons to assist the traveler in completing the enrollment. Enrollees are able to submit and update biographic information and answer eligibility questions using the EVUS Web site. Successful EVUS enrollment is required for nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category. In most cases, the enrollee will obtain an immediate response indicating whether the enrollment is successful. The Electronic Visa Update System enrollment and status must be verified by a carrier prior to the traveler boarding an air or sea carrier. Notifications are sent between DHS/CBP and carriers when the following events occur:

- A traveler books travel
- The Airline/Carrier sends Advance Passenger Information to DHS
- The Airline/Carrier receives one of the following responses:
  - ○ EVUS on file—OK to board carrier
  - ○ No EVUS on file—Check for other valid travel documents
  - ○ EVUS enrollment unsuccessful—Do not allow to travel
  - ○ System Issues—Please resend

Among other functions, CBP vets the EVUS enrollment information against selected security and law enforcement databases, including the use of TECS and the Automated Targeting System (ATS). The ATS will retain a copy of EVUS enrollment data to identify EVUS enrollees who may pose a security risk to the United States. ATS will maintain copies of key elements of certain databases to minimize the impact of processing searches on operational systems and to act as a backup for certain operational systems. DHS may also vet EVUS enrollment information against security and law enforcement databases at other federal agencies to enhance DHS's ability to determine whether the enrollee poses a security risk to the United States. The results of this vetting may support DHS's initial assessment of whether the enrollee's travel poses a law enforcement or security risk and whether there may be issues which may require separate consideration. The individual must attempt enrollment and receive a notification of compliance prior to boarding a carrier destined to the United States. Furthermore, the EVUS system will continuously query/vet enrollment information against law enforcement databases. EVUS status can change at any time.

The data elements on the EVUS enrollment questionnaire will make the screening of travelers more robust. The required data elements strengthen security in the EVUS enrollment process by enhancing the capability to identify individuals who may pose a threat to the United States or otherwise be found inadmissible at the time that they apply for entry at a U.S. port of entry. Enrollment in EVUS will not guarantee admission into the United States. CBP will continue to employ standard entry procedures to determine admissibility at U.S. ports of entry.

When a person submits an EVUS enrollment, CBP examines the enrollment questionnaire by screening the enrollee's data through ATS and TECS. The initial and updated biographic information obtained by EVUS is important to identify any concerns regarding future admissibility. Failure to successfully enroll in EVUS when required as described above will result in the automatic provisional revocation of the alien's visa, and the alien will not be authorized to travel to the United States unless or until the alien enrolls in EVUS and obtains a notification of compliance. If a visa is provisionally revoked on the basis of failing to provide or update information to EVUS, the person can attempt EVUS enrollment again, and if successful the provisional revocation of his/her visa would be reversed. In addition, non-compliance with EVUS would be a basis for commercial carriers to deny boarding to an individual seeking to travel to the United States. Because non-compliance with EVUS results in automatic provisional revocation of the individual's visa, the individual would not have valid travel documents upon attempting to board.

DHS/CBP has authority to operate this system under sec. 402(4) of the Homeland Security Act of 2002, 6 U.S.C. 201, *et seq.*, and sec. 103 (8 U.S.C. 1103), 214 (8 U.S.C. 1184), 215 (8 U.S.C. 1185), and 221 (8 U.S.C. 1201) of the Immigration and Nationality Act (INA), and 8 CFR part 2.

Consistent with DHS's information sharing mission, information stored in EVUS may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. Information stored in EVUS may also be shared with other federal security and counterterrorism agencies, as well as on a case-by-case basis to appropriate State, local, tribal, territorial, foreign, or international government agencies. This external sharing takes place after DHS determines that it is compatible with the routine uses set forth in this system of records notice.

Additionally, for ongoing, systematic sharing, DHS completes an information sharing and access agreement with federal partners to establish the terms and conditions of the sharing, including: documenting the need to know, identifying authorized users and uses, protecting the privacy of the data, and ensuring the confidentiality of visa records, as applicable. This updated system will be included in DHS's inventory of systems of records, located on the DHS Web site at *http://www.dhs.gov/system-records-notices-sorns.*

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Given the importance of providing privacy protections to international travelers, even prior to the collection of the data elements in EVUS that may include information about U.S. persons, DHS always administratively applies the privacy protections and safeguards of the Privacy Act to all international travelers subject to EVUS. The Electronic Visa Update System falls squarely within the mixed system policy and DHS will continue to extend the administrative protections of the Privacy Act to information about travelers and non-travelers whose information is provided to DHS as part of the EVUS enrollment.

Below is the description of the DHS/CBP–022 Electronic Visa Update System (EVUS) System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)-022.

SYSTEM NAME:

DHS/CBP–022 Electronic Visa Update System (EVUS)

SECURITY CLASSIFICATION:

Unclassified. The data may be retained on classified networks but this does not change the nature and character of the data until it is combined with classified information.

SYSTEM LOCATION:

Records are maintained at DHS/CBP Headquarters in Washington, DC, and in field offices. Records are replicated from the operational system and maintained on the DHS unclassified and classified networks.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include:

1. Nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category; and
2. Persons, including U.S. Citizens and lawful permanent residents, whose information is provided in response to EVUS enrollment questions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category to obtain the required travel authorization by electronically submitting an enrollment consisting of biographic and other data elements via the EVUS Web site. The categories of records in EVUS include:

- Full name (first, middle, and last);
- Other names or aliases, if available;
- Date of birth;
- City and country of birth;
- Gender;
- Email address;
- Telephone number (home, mobile, work, other);
- Home address (address, apartment number, city, state/region);
- Internet protocol (IP) address;
- EVUS enrollment number;
- Global Entry Program Number;
- Country of residence;
- Passport number;
- Passport issuing country;
- Passport issuance date;
- Passport expiration date;
- Department of Treasury Pay.gov payment tracking number (*i.e.*, confirmation of payment; absence of payment confirmation will result in a "not cleared" determination);
- Country of citizenship;
- Other citizenship (country, passport number);
- National identification number, if available;
- Address while visiting the United States (number, street, city, state);
- Emergency point of contact information (name, telephone number, email address);
- U.S. Point of Contact (name, address, telephone number);
- Parents' names;
- Current job title;
- Current or previous employer name;
- Current or previous employer street address; and
- Current or previous employer telephone number.

The categories of records in EVUS also include responses to the following questions:

- Do you have a physical or mental disorder, or are you a drug abuser or addict,[1] or do you currently have any of the following diseases (communicable diseases are specified pursuant to sec. 361(b) of the Public Health Service Act):
  - ○ Cholera
  - ○ Diphtheria
  - ○ Tuberculosis, infection
  - ○ Plague
  - ○ Smallpox
  - ○ Yellow Fever
  - ○ Viral Hemorrhagic Fevers, including Ebola, Lassa, Marburg, Crimean-Congo
  - ○ Severe acute respiratory illnesses capable of transmission to other persons and likely to cause mortality.
- Have you ever been arrested or convicted for a crime that resulted in serious damage to property, or serious harm to another person or government authority?
- Have you ever violated any law related to possessing, using, or distributing illegal drugs?
- Do you seek to engage in or have you ever engaged in terrorist activities, espionage, sabotage, or genocide?
- Have you ever committed fraud or misrepresented yourself or others to obtain, or assist others to obtain, a visa or entry into the United States?
- Are you currently seeking employment in the United States or were you previously employed in the United States without prior permission from the U.S. government?
- Have you ever been denied a U.S. visa you applied for with your current or previous passport, or have you ever been refused admission to the United States or withdrawn your application for admission at a U.S. port of entry? If yes, when and where?
- Have you ever stayed in the United States longer than the admission period granted to you by the U.S. government?
- Have you ever been a citizen or national of any other country? If yes, other countries of previous citizenship or nationality?

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV of the Homeland Security Act of 2002, 6.U.S.C. 201 *et seq.*, the Immigration and Naturalization Act, as amended, including sec.s 103 (8 U.S.C. 1103), 214 (8 U.S.C. 1184), 215 (8 U.S.C. 1185), and 221 (8 U.S.C. 1201) of the Immigration and Nationality Act (INA), and 8 CFR part 2; and the Travel Promotion Act of 2009, Public Law 111–145, 22 U.S.C. 2131.

PURPOSE(S):

The purpose of this system is to collect and maintain a record of nonimmigrant aliens holding a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category, and to determine whether there is information that requires separate, additional action.

The Department of Treasury *Pay.gov* tracking number (associated with the payment information provided to *Pay.gov* and stored in the Credit/Debit Card Data System, DHS/CBP–003 Credit/Debit Card Data System (CDCDS), 76 FR. 67755 (November 2, 2011)) will be used to process EVUS and third-party administrator fees and to reconcile issues regarding payment between EVUS, CDCDS, and *Pay.gov.* Payment information will not be used for vetting purposes and is stored in a separate system (CDCDS) from the EVUS enrollment data.

DHS maintains a replica of some or all of the data in EVUS on the unclassified and classified DHS networks to allow for analysis and vetting consistent with the above stated uses, purposes, and this published notice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the United States Attorneys, or other Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any Component thereof;

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[1] Immigration and Nationality Act 212(a)(1)(A). Pursuant to 8 U.S.C. 1182(a), aliens may be inadmissible to the United States if they have a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others, or (ii) to have had a physical or mental disorder and a history of behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or to lead to other harmful behavior, or are determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to be a drug abuser or addict.

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To appropriate Federal, State, local, international, tribal, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, license, or treaty when DHS determines that the information would assist in the enforcement of civil or criminal laws;

H. To appropriate Federal, State, local, tribal, or foreign governmental agencies or multilateral governmental organizations for the purpose of protecting the vital health interests of a data subject or other persons (*e.g.,* to assist such agencies or organizations in preventing exposure to or transmission of a communicable or quarantinable disease or to combat other significant public health threats; appropriate notice will be provided of any identified health threat or risk).

I. To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate in the proper performance of the official duties of the officer making the disclosure.

J. To a Federal, State, tribal, local, international, or foreign government agency or entity for the purpose of consulting with that agency or entity: (1) To assist in making a determination regarding redress for an individual in connection to a program; (2) for the purpose of verifying the identity of an individual seeking redress in connection with the operations of a DHS Component or program; or (3) for the purpose of verifying the accuracy of information submitted by an individual who has requested such redress on behalf of another individual.

K. To Federal and foreign government intelligence or counterterrorism agencies or components thereof when DHS becomes aware of an indication of a threat or potential threat to national or international security to assist in countering such threat, or to assist in anti-terrorism efforts.

L. To the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Act, and all other immigration and nationality laws including treaties and reciprocal agreements.

M. To an organization or individual in either the public or private sector, either foreign or domestic, when there is a reason to believe that the recipient is or could become the target of a particular terrorist activity or conspiracy, to the extent the information is relevant to the protection of life or property.

N. To the carrier transporting an individual to the United States, prior to travel, in response to a request from the carrier, to verify an individual's travel authorization status.

O. To the Department of Treasury's *Pay.gov,* for payment processing and payment reconciliation purposes.

P. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings.

Q. To appropriate Federal, State, local, international, tribal, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, license, or treaty when DHS determines that the information would assist in the enforcement of civil or criminal laws.

R. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

DHS/CBP stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are safeguarded with passwords and encryption and may be stored on magnetic disc, tape, and digital media.

RETRIEVABILITY:

DHS/CBP may retrieve records by any of the data elements supplied by the enrollee.

SAFEGUARDS:

DHS/CBP safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. CBP has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

Enrollment information submitted to EVUS generally expires and is deemed "inactive" two years after the initial submission of information by the enrollee. In the event that a traveler's passport remains valid for less than two years from the date of the EVUS notification of compliance, the EVUS enrollment will expire concurrently with the passport. Information in EVUS will be retained for one year after the EVUS travel enrollment expires. After this period, the inactive account information will be purged from online access and archived for 12 years. At any time during the 15-year retention period (generally 3 years active, 12 years archived) CBP will match data linked to active law enforcement lookout records to enforcement activities, and/or investigations or cases, including EVUS enrollment attempts that are unsuccessful, which will remain accessible for the life of the law enforcement activities to which they may become related. NARA guidelines for retention and archiving of data will apply to EVUS and CBP continues to negotiate with NARA for approval of the EVUS data retention and archiving plan. Records replicated on the unclassified and classified networks will follow the same retention schedule.

Payment information is not stored in EVUS, but is forwarded to *Pay.gov* and stored in CBP's financial processing system, CDCDS, pursuant to the DHS/CBP–018, CDCDS system of records notice.

When a traveler's EVUS data is used for purposes of processing his or her application for admission to the United States, the EVUS data will be used to create a corresponding admission record in the DHS/CBP–016 Non-Immigrant Information System (NIIS) (March 13, 2015, 80 FR 13398). This corresponding admission record will be retained in accordance with the NIIS retention schedule, which is 75 years.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Automated Systems, U.S. Customs and Border Protection Headquarters, 1300 Pennsylvania Avenue NW., Washington, DC 20229.

NOTIFICATION PROCEDURE:

Enrollees may access their EVUS information to view and amend their enrollment by providing their EVUS number, birth date, and passport number through the EVUS Web site. Once they have provided their EVUS number, birth date, and passport number, enrollees may view their EVUS status (successful enrollment, unsuccessful enrollment, pending) and submit limited updates to their travel itinerary information. If an enrollee does not know his or her enrollment number, he or she can provide his or her name, passport number, date of birth, passport issuing country, and visa number to retrieve his or her enrollment number.

In addition, EVUS enrollees and other individuals whose information is included on EVUS enrollment may submit requests and receive information maintained in this system as it relates to data submitted by or on behalf of a person who travels to the United States and crosses the border, as well as, for EVUS enrollees, the resulting determination (successful enrollment, pending, unsuccessful enrollment). However, the Secretary of Homeland Security has exempted portions of this system from certain provisions of the Privacy Act related to providing the accounting of disclosures to individuals because it is a law enforcement system. CBP will, however, consider individual requests to determine whether or not information may be released. In processing requests for access to information in this system, CBP will review not only the records in the operational system but also the records that were replicated on the unclassified and classified networks, and based on this notice provide appropriate access to the information.

Individuals seeking notification of, and access to, any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and Headquarters Freedom of Information Act (FOIA) Officer, whose contact information can be found at *http://www.dhs.gov/foia* under "FOIA Contact Information." If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his or her agreement for you to access his or her records.

Without the above information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Records are obtained from the online EVUS enrollment at *https://www.cbp.gov/EVUS.* Some record information is derived from visa records of the U.S. Department of State.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

No exemption shall be asserted with respect to information maintained in the system as it relates to data submitted by or on behalf of a person who travels to visit the United States and crosses the border, nor shall an exemption be asserted with respect to the resulting determination (authorized to travel, pending, or not authorized to travel). Information in the system may be shared with law enforcement and/or intelligence agencies pursuant to the above routine uses. The Privacy Act requires DHS to maintain an accounting of the disclosures made pursuant to all routines uses. Disclosing the fact that a law enforcement or intelligence agency has sought and been provided particular records may affect ongoing law enforcement activities. As such, pursuant to 5 U.S.C. 552a(j)(2), DHS will claim exemption from secs (c)(3), (e)(8), and (g) of the Privacy Act of 1974, *as amended,* as is necessary and appropriate to protect this information. Further, DHS will claim exemption from sec. (c)(3) of the Privacy Act of 1974, *as amended,* pursuant to 5 U.S.C. 552a(k)(2) as is necessary and appropriate to protect this information.

Dated: August 29, 2016.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2016–21100 Filed 8–31–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[16X L1109AF LLUT980300 L13100000.XZ0000 24–1A]

Second Call for Nominations for the Utah Resource Advisory Council, State Agency Category

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to request a second call for nominations for one open position on the Bureau of Land Management (BLM) Utah Resource Advisory Council (RAC) because we did not receive a sufficient number of applications from the first call for nominations. The vacant position is in category three, employees of a State agency responsible for the management of natural resources. The RAC provides advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within their geographic areas. The BLM will accept public nominations for 30 days after the publication of this notice.

DATES: All nominations must be received no later than October 3, 2016.

ADDRESSES: All nominations must be sent to Lola Bird, Public Affairs Specialist, Bureau of Land Management, Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101.

FOR FURTHER INFORMATION CONTACT: Lola Bird, Public Affairs Specialist, Bureau of Land Management Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101; by telephone (801) 539–4033 or by email: *lbird@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question for the above individual. The FIRS is available 24 hours a day, seven days a week. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of public lands administered by the BLM. Section 309 of FLPMA (43 U.S.C. 1739) directs the Secretary to establish 10- to 15-member citizen-based advisory councils that are consistent with the Federal Advisory Committee Act (FACA). As required by FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands.

The BLM-Utah RAC is hosting a call for nominations for a vacant position in category three (description addressed in the **SUMMARY** above). Upon appointment, the individual selected will fill the position until the term's ending date of June 22, 2018. Nominees must be residents of Utah. The BLM will evaluate nominees based on their training, education, experience, and knowledge of the council's geographical area. Nominees should also demonstrate a commitment to consensus building and collaborative resource decision-making. Individuals who are Federally registered lobbyists are ineligible to serve on all FACA and non-FACA boards, committees, or councils in an individual capacity. The term "individual capacity" refers to individuals who are appointed to exercise their own individual best judgment on behalf of the government, such as when they are designated Special Government Employees, rather than being appointed to represent a particular interest. All nominations must be accompanied by letters of reference from any represented interests or organizations, a completed RAC application, and any other information that speaks to the nominee's qualifications.

The BLM-Utah will consult with the governor's office before forwarding its recommendations to the Secretary of the Interior for a final decision. Simultaneous with this notice, BLM-Utah will issue a press release providing additional information for submitting nominations.

Authority: 43 CFR 1784.4–1.

Jenna Whitlock,

Acting State Director.

[FR Doc. 2016–21102 Filed 8–31–16; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CONC–20859; PPWOBSADC0, PPMVSCS1Y.Y00000]

Notice of Extension of Concession Contract

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: The National Park Service hereby gives public notice that it proposes to extend the following expiring concession contract until December 31, 2017, or until the effective date of a new contract, whichever occurs sooner:

CONCID	Concessioner	Park unit
GLCA001–06	Colorado River Discovery, LLC	Glen Canyon National Recreation Area.

DATES: Effective November 1, 2016.

FOR FURTHER INFORMATION CONTACT: Brian Borda, Chief, Commercial Services Program, National Park Service, 1201 Eye Street NW., 5th Floor, Washington, DC 20005, Telephone: 202–513–7156.

SUPPLEMENTARY INFORMATION: The listed concession contract will expire by its terms on October 31, 2016. The National Park Service has determined the proposed short-term extension necessary to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption. The National Park Service considered issuing a temporary concession contract, but deemed that alternative impractical given the time constraints and likelihood it would not increase competition. Under the provisions of the current concession contract and pending the completion of the public solicitation of a prospectus for a new concession contract, the National Park Service authorizes the extension of visitor services under the terms and conditions of the current contract as amended. The extension of operations does not affect any rights with respect to selection for award of a new concession contract. The publication of this notice merely reflects the intent of the National Park Service but does not bind the National Park Service to extend the contract identified above.

Dated: August 11, 2016.

Lena McDowall,

Chief Financial Officer.

[FR Doc. 2016–21101 Filed 8–31–16; 8:45 am]

BILLING CODE 4312–53–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–21656; PX.XVPAD0522.0.1]

Change of Jurisdiction—National Park Service Units Within the Commonwealth of Kentucky

AGENCY: National Park Service, Interior.

ACTION: Notice of change in jurisdiction.

SUMMARY: On behalf of the United States, the National Park Service accepted exclusive jurisdiction from the Commonwealth of Kentucky over certain lands and waters administered by the National Park Service within Mammoth Cave National Park. The National Park Service also accepted concurrent jurisdiction between the United States and the Commonwealth of Kentucky on certain lands and waters administered by the National Park Service within Abraham Lincoln National Historic Site, Cumberland Gap National Historical Park, and Fort Donelson National Battlefield.

DATES: *Effective Date:* Exclusive jurisdiction on certain lands and waters within Mammoth Cave National Park became effective on December 7, 2015. Concurrent jurisdiction on certain lands and waters of Abraham Lincoln National Historic Site, Cumberland Gap National Historical Park, and Fort Donelson National Battlefield became effective on July 28, 2016.

FOR FURTHER INFORMATION CONTACT: Jonathan Pierce, National Park Service, Southeast Region, 100 Alabama Street SW., 1924 Building, Atlanta, GA 30303. Phone: 404–507–5726.

SUPPLEMENTARY INFORMATION:

Exclusive Jurisdiction

Mammoth Cave National Park (MACA) was created by Congress in 1926. In 1930, the Commonwealth of Kentucky ceded to the United States exclusive jurisdiction over all lands and waters acquired by the United States for MACA, effective when the United States accepted such jurisdiction by statute on June 5, 1942. By Kentucky law, the cession and acceptance was limited to lands owned by the United States. On July 2, 1986, the Director of the National Park Service (NPS) notified the Governor of Kentucky that he was accepting exclusive jurisdiction over lands and waters acquired by the United States within MACA between 1942 and 1986.

Since July 2, 1986, the United States has acquired additional lands for MACA. Accordingly, in a letter dated May 21, 2014, the Director of the NPS notified the Governor of the Commonwealth of Kentucky that he formally accepted on behalf of NPS exclusive jurisdiction over lands and waters within the legislated boundaries of MACA, that were acquired by the U.S. Government after July 2, 1986. Exclusive jurisdiction over these lands was established by the Governor's acknowledgement of receipt of the letter on December 7, 2015.

For the lands within MACA whereby exclusive jurisdiction had been accepted in 1942 and 1986, that acceptance remains in effect.

Concurrent Jurisdiction

On April 19, 1994, upon application by the NPS, the Governor of the Commonwealth of Kentucky signed Executive Order 94–355 (E.O.), ceding legislative jurisdiction on lands owned by the United States within Abraham Lincoln Birthplace National Historic Site (ABLI), Big South Fork National River and Recreation Area (BISO), and Cumberland Gap National Historical Park (CUGA). The Director of the NPS accepted the cession as required by Federal law. Part IV of the E.O. provided that, in the event of an alteration of the descriptions of the lands, the NPS would transmit new descriptions to be annexed to the E.O.

Since April 19, 1994, the United States has acquired additional lands in Kentucky within the legislated boundaries of ABLI and CUGA. Further, an additional unit of the National Park System, Fort Donelson National Battlefield (FODO; Fort Heiman Unit), has been established in the Commonwealth of Kentucky. To bring these NPS administered lands under concurrent legislative jurisdiction, it was necessary to update the E.O. of April 19, 1994.

Therefore, the Commonwealth of Kentucky through signature on a cession instrument by the Governor ceded to the United States such measure of jurisdiction as necessary to effectuate a status of concurrent legislative jurisdiction for purposes of criminal law enforcement on these acquired lands within ABLI, CUGA, and FODO.

This cession is limited to lands within each of the above-listed units which were acquired since April 19, 1994. The NPS, acting through the Director, formally accepted the described cession of concurrent jurisdiction, through his signature on the cession instrument. Concurrent legislative jurisdiction became effective with entry of the cession instrument upon the Executive Journal for the Commonwealth of Kentucky on July 28, 2016.

For all other NPS administered lands within these units whereby concurrent legislative jurisdiction had been ceded in 1994, that cession remains in effect.

Dated: August 23, 2016.

Michael T. Reynolds,

Acting Director, National Park Service.

[FR Doc. 2016–21098 Filed 8–31–16; 8:45 am]

BILLING CODE 4312–EJ–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21728; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Valley Authority, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Valley Authority (TVA) has completed an inventory of human remains and associated funerary objects in consultation with the appropriate federally recognized Indian tribes, and has determined that a cultural affiliation between the human remains and associated funerary objects and any present-day federally recognized Indian tribes cannot be reasonably traced. Representatives of any federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to TVA. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the federally recognized Indian tribe stated in this notice may proceed.

DATES: Representatives of any federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to TVA at the address in this notice by October 3, 2016.

ADDRESSES: Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT11D, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of TVA. The human remains and associated funerary objects were removed from sites in Lauderdale County, AL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by TVA professional staff in consultation with the University of Alabama and representatives of the Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

The sites listed in this notice were excavated as part of TVA's Pickwick Reservoir project by the Alabama Museum of Natural History (AMNH) at the University of Alabama, using labor and funds provided by the Works Progress Administration. Details regarding these excavations and sites may be found in a report, *An Archaeological Survey of Pickwick Basin in the Adjacent Portions of the States of Alabama, Mississippi, and Tennessee,* by William S. Webb and David L. DeJarnette. The human remains and associated funerary objects listed in this notice have been in the physical custody of the AMNH at the University of Alabama since excavation but are under the control of TVA.

In February 1937, human remains representing, at minimum, 24 individuals were removed from the Smithsonia Landing site, 1LU5, in Lauderdale County, AL. Excavation commenced after TVA acquired the land encompassing site 1LU5 on May 4, 1936. This shell midden site had been disturbed by a historic riverboat landing and associated buildings. This disturbance and rising reservoir water levels led to limited excavations revealing a Late Archaic (4000–1000 B.C.) occupation. The human remains include adults, juveniles, and infants of both sexes. No known individuals were identified. There are 19 associated funerary objects including 2 stone adzes, 1 chert biface, 2 bone awls, 2 Little Bear Creek projectile points, 3 fresh water pearl beads, and 9 shell beads.

From August 1937 to April 1938, human remains representing, at minimum, 8 individuals were removed from 1LU21, in Lauderdale County, AL. Excavation commenced after TVA acquired the land encompassing this site on February 19, 1937. Excavations focused on the earthen mound, constructed in four stages and supported at least four superimposed structures and two peripheral single post structures. The primary occupation of this mound was during the Kogers Island phase (A.D. 1200–1500) of the Mississippian period. The human remains represent infants, adolescents, and adults. No known individuals were identified. The 179 associated funerary objects include 1 Bell Plain bottle; 1 Bell Plain double jar; 1 celt; 1 copper gorget fragment; 9 copper ear spool fragments; 2 copper covered wood bead fragments; 1 hooded owl effigy bottle; 1 Mississippi Plain bowl; 14 Mississippi Plain double jar fragments; 1 Mississippi Plain jar; 42 Mississippi Plain jar fragments; 27 Mississippi Plain sherds; 1 Mississippi Plain red-filmed rim; 1 Moundville Engraved bottle; 2 shell gorget fragments; 73 shell beads; and 1 shell-tempered incised and noded composite jar/bowl.

From October 1937 to December 1938, human remains representing, at minimum, 159 individuals were removed from site 1LU92 in Lauderdale County, AL. Excavation commenced after TVA purchased this land on November 27, 1935. Site 1LU92 was composed of both a village and a cemetery and excavations focused on the cemetery. There was no clear stratigraphy at the site. The excavators believed the village midden was created by an earlier occupation than the cemetery. The cemetery occupation is attributed to the Kogers Island phase (A.D. 1200–1500) of the Mississippian period. The human remains include adults, juveniles, children, and infants of both sexes. No known individuals were identified. The 3,654 associated funerary objects include 39 antler tip projectile points; 1 antler tool; 1 Barton Incised, var. unspecified jar; 4 Baytown Plain sherds; 20 bear tooth beads; 1 beaver incisor; 119 Bell Plain sherds; 4 Bell Plain bottles; 3 Bell Plain bowl sherds; 2 Bell Plain bowls; 2 Bell plain Effigy bowls; 2 Bell Plain jars; 1 Bell Plain lobate bottle; 4 chert bifaces ; 1 bird bone; 109 bird sternum fragments; 28 bone awls; 6 bone awl fragments; 2 bone fragments; 2 bone needles; 12 bone pins; 4 bone tool fragments; 9 repousse copper cutouts; 7 copper ear bob fragments; 15 copper ear plug fragments; 1 copper stained bone needle; 1 cortical chert flake; 1 Crow Creek Noded jar; 4 Duck River sword projectile points/knives; 1 effigy pipe; 2 Elk River projectile points/knives; 1 Flint River projectile point/knife; 1 ground galena nodule; 4 greenstone celts; 2 Guntersville projectile points/knives; 1 hammerstone/abrader; 2 Ledbetter projectile points/knives; 1 Little Bear Creek projectile point/knife; 2 Madison projectile points/knives; 2 mammal tooth beads; 2 McIntire projectile points/knives; 1 McKee Island Brushed jar; 6 McKee Island Brushed sherds; 176 Mississippi Plain sherds; 1 Mississippi Plain bottle; 1 Mississippi Plain bowl; 14 Mississippi Plain jars; 1 modified fish jaw; 2 modified shells; 2 Moundville Engraved, var. Hemphill bottles; 21 Moundville Engraved, var. Tuscaloosa bottle sherds; 1 Moundville Incised, var. Carrolton jar; 1 Moundville Incised, var. unspecified jar; 18 Moundville Incised, var. unspecified sherds; 2 mussel shells; 3 stone palettes; 20 projectile points/knives; 1 rodent mandible; 2,335 shell beads; 3 shell cups; 3 shell ear plugs; 1 Cox style shell gorget; 1 spade/spatulate celt; 1 Stanfield projectile point/knife; 551 turtle shell fragments; 2 unmodified fish jaw; 1 unmodified limestone; 1 unmodified shell; and 58 unmodified stones.

From February to May 1937, and from February to March 1938, human remains representing, at minimum, 13 individuals were removed from site 1LU64, 23 miles downstream from Florence on the Tennessee River in Lauderdale County, AL. TVA purchased the land encompassing site 1LU64 on October 28, 1936. Site 1LU64 was a Copena phase (A.D. 100–500) burial mound that was damaged by trenching in 1917. The human remains are fragmented and represent adults and children of indeterminate sex. No known individuals were identified. The 10 associated funerary objects include 2 copper beads, 6 galena nodules, 1 piece of galena ground into a discoidal, and 1 piece of red ochre.

In February 1937, human remains representing, at minimum, one individual were removed from site 1LU65, adjacent to 1LU64 in Lauderdale County, AL. TVA purchased the land encompassing site 1LU65 on October 28, 1936. A small portion of this village was excavated before inundation of the Pickwick reservoir. The human remains represent one adult of unknown sex. No known individuals were identified. No associated funerary objects are present.

From June to September 1936, human remains representing, at minimum, 109 individuals were removed from the Long Branch site, 1LU67 in Lauderdale County, AL. Excavation commenced after TVA purchased three parcels of land encompassing this site on January 11, 1935, September 16, 1935, and February 8, 1936. Site 1LU67 was located immediately adjacent to the Tennessee River. Although described as a mound, this site appears to have been created from the accumulation of discarded shell, village midden, and alluvial soils rather than an intentionally constructed earthwork. This shell midden extended to a depth of 11 feet below surface. The Long Branch site had multiple occupation including the Middle Archaic (6000–4000 B.C.), Late Archaic (4000–1000 B.C.), early Woodland (500–100 B.C.), Middle Woodland (100 B.C. to A.D. 500), Late Woodland (A.D. 500–1000), and Mississippian (A.D. 900–1500) periods. It is not possible to determine from which level of occupation the human remains originated. The human remains include adults, juveniles, children, and infants of both sexes. No known individuals were identified. The 2,330 associated funerary objects include 2 Alexander incised sherds; 1 Alexander Punctated var. Tibbee sherd; 1 antler handle; 2 antler shaft wrenches; 2 antler atlatl hook fragments; 2 Baldwin Plain sherds; 3 Bell Plain bowl rim sherds; 21 Bell Plain sherd; 2 Benton projectile points/knives; 4 chert bifaces; 1 Bluff Creek Simple Stamped sherd; 16 bone awls; 1 bone fragment; 11 bone pendants; 1 decorated bone pin; 14 chert beads; 1 Copena projectile points/knives; 9 fabric fragments; 139 Gastropod shell beads; 2 ground conch shell fragments; 1 hammerstone; 1 Jasper bead, ground; 15 Long Branch Fabric Marked sherds; 7 Mississippi Plain jar sherds; 1 Mulberry Creek Cord Marked sherd; 2 Mulberry Creek Plain sherds; 1,912 shell beads; 44 shell gorgets/pendants; 12 shell pendant fragments; 3 shell pins; 93 terrapin shell fragments; 3 unidentified bone fragments; and 1 Wright Creek Check Stamped sherd.

From January to February 1938, human remains representing, at minimum, 31 individuals were removed from the Union Hollow site, 1LU72, Lauderdale County, AL. Excavation commenced after TVA purchased the land encompassing this site on October 5, 1936. Site 1LU72 was located immediately adjacent to the Tennessee River. This shell "mound" was created from the accumulation of discarded shell, village midden, and alluvial soils rather than intentionally constructed earthworks. This shell midden extended to a depth of 10 feet below surface. Early flooding of the Pickwick reservoir abbreviated excavations at this site. The Union Hollow site had multiple occupation including the Late Archaic (4000–1000 B.C.), Early Woodland (500–100 B.C.) and Mississippian (A.D. 1200–1500) periods. The human remains include infants, children, and adults of both sexes. No known individuals were identified. The 116 associated funerary objects include 2 antler drifts/tools; 1 Baytown Plain sherd; 14 Bell Plain jar sherds; 2 bone fish hooks; 23 bone pendants; 1 Flint Creek projectile point/knife; 1 ground stone abrader; 3 ground stone celts; 1 hammerstone; 2 Long Branch Cord Marked sherds; 1 Mississippi Plain jar; 8 Mississippi Plain sherds; 10 Mississippi Plain noded rim sherds; 3 Mulberry Creek Cord Marked sherds; 2 shell ear plugs; 2 shell cup/spoon fragments; 39 turtle carapace fragments; and 1 Wheeler Check Stamped sherd.

TVA has determined that cultural affiliation between the human remains and associated funerary objects excavated from sites 1LU5, 1LU21, 1LU92, 1LU64, 1LU65, 1LU67, and 1LU72, and any present-day federally recognized tribes cannot be reasonably traced. Accordingly, these items are culturally unidentifiable, and TVA intends to transfer control of these items pursuant to 43 CFR 10.11(c).

At the time of the excavation and removal of these human remains and associated funerary objects, the land from which the human remains and associated funerary objects were removed was not the tribal land of any federally recognized Indian tribe. On March 10, 2016, TVA consulted with all federally recognized Indian tribes who are recognized as aboriginal to the area from which these Native American human remains and associated funerary objects were removed. These tribes are the Cherokee Nation, Eastern Band of Cherokee Indians, and the United Keetoowah Band of Cherokee Indians in Oklahoma. None of these Indian tribes agreed to accept control of the human remains and associated funerary objects. After further consultation with the parties that were a part of this overall consultation, TVA has decided to transfer control of the human remains and associated funerary objects to The Chickasaw Nation.

Determinations Made by the Tennessee Valley Authority

Officials of TVA have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 345 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 6,308 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- Pursuant to 43 CFR 10.11(c)(1)(i), at the time of excavation of the human remains and associated funerary objects, the land from which the cultural items were removed was not the tribal land of any federally recognized Indian tribe.
- Pursuant to 43 CFR 10.11(c)(1)(ii), the following tribes are aboriginal to the area from which the cultural items were excavated: Cherokee Nation, Eastern Band of Cherokee Indians, and the United Keetoowah Band of Cherokee Indians in Oklahoma. None of these tribes agreed to accept control of the human remains or associated funerary objects.
- Pursuant to 43 CFR 10.11(c)(2)(i), TVA has decided to transfer control of the culturally unidentifiable human remains to The Chickasaw Nation.
- Pursuant to 43 CFR 10.11(c)(4), TVA has decided to transfer control of the culturally unidentifiable associated funerary objects to The Chickasaw Nation.

Additional Requestors and Disposition

Representatives of any federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT11D, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov,* by October 3, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Chickasaw Nation may proceed.

TVA is responsible for notifying the Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: August 10, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–21002 Filed 8–31–16; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21731; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Valley Authority, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Valley Authority (TVA) has completed an inventory of human remains and associated funerary objects in consultation with the appropriate federally recognized Indian tribes, and has determined that a cultural affiliation between the human remains and associated funerary objects and any present-day federally recognized Indian tribes cannot be reasonably traced. Representatives of any federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to TVA. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the federally recognized Indian tribe stated in this notice may proceed.

DATES: Representatives of any federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to TVA at the address in this notice by October 3, 2016.

ADDRESSES: Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT11D, Knoxville TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of TVA. The human remains and associated funerary objects were removed from archeological sites in Madison and Lawrence Counties, AL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by TVA professional staff in consultation with the University of Alabama and representatives of the Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Choctaw Nation of Oklahoma; Eastern Shawnee Tribe of Oklahoma; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); The Chickasaw Nation; The Muscogee (Creek) Nation; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

The sites listed in this notice were excavated as part of TVA's Wheeler Reservoir project by the Alabama Museum of Natural History (AMNH) at the University of Alabama, using labor and funds provided by the Works Progress Administration. Details regarding the excavations and sites may be found in reports, *The Flint River Site, MA48,* by William S. Webb and David L. DeJarnette, and *An Archaeological Survey of Wheeler Basin on the Tennessee River in Northern Alabama,* by William S. Webb. The human remains and associated funerary objects listed in this notice have been in the physical custody of the AMNH at the University of Alabama since excavation but are under the control of TVA.

From June to December 1938, human remains representing, at minimum, 242 individuals were removed from the Flint River site, 1MA48, in Madison County, AL. Excavation commenced after TVA acquired the two parcels of land encompassing 1MA48 on November 11, 1935, and July 3, 1936. Excavations revealed multiple occupations including during the Late Archaic (4000–1000 B.C.); Woodland Colbert (300 B.C. to A.D. 100), and Flint River (A.D. 500–1000) phases and the early Mississippian Langston phase (A.D. 900–1200). The human remains include adults, juveniles, children, and infants of both sexes. No known individuals were identified. The 2,572 associated funerary objects include 27 antler tools; 4 bone awls; 4 chert bifaces; 29 bone beads; 8 bone pins; 5 polished bone; 2 bone gorgets; 2 Hillabee Greenstone celts; 1 disk bead; 5 engraved turtle carapace fragments; 1 fired daub; 1 bone fishhook; 2 Flint Creek projectile points/knives; 2 freshwater pearl beads; 1 chert graver; 2 grooved stone abraders; 12 gastropod shell beads; 703 ground sandstone bowl sherds; 3 ground soapstone bowls; 5 ground soapstone bowl sherds; 1 hammerstone; 2 limestone hoes; 1 Ledbetter projectile point; 1 Mississippi Plain jar; 7 rodent mandible fragments; 4 McIntire projectile points; 2 Pickwick projectile points; 7 projectile points/knives; 1 shell-tempered ceramic pipe; 1,660 shell beads; 3 shell gorgets/pendants; 2 chert side scrappers; 1 Smithsonia projectile point; 3 bone spoon fragments; 1 Sykes projectile point; 1 steatite stone bead; 19 textile (cane) and bone fragments; 3 limestone tubular cones/pipes; 1 tubular sandstone cone/pipe; 31 turtle carapace fragments; 1 worked bone; and 1 worked shell.

From May to June 1934, human remains representing, at minimum, 49 individuals were removed from site 1LA13 in Lawrence County, AL. Excavation commenced after TVA purchased this land February 14, 1934. Site 1LA13 was one of the first sites excavated on TVA land in north Alabama. Information about the excavations is not abundant. Excavations revealed this site to be a burial mound. All the burials were considered inclusive to the mound, not intruded into it at a later date. An examination of the funerary objects excavated at this site indicates that this mound was created during the Hobbs Island phase (A.D. 1200–1500) of the Mississippian period. The human remains include adults, juveniles, and children of both sexes. No known individuals were identified. The 65 associated funerary objects include 2 Baytown Plain sherds; 2 Bell Plain bottles; 1 Bell Plain bowl; 7 Bell Plain sherds; 1 Crow Creek Noded jar; 5 Henry Island Plain sherds; 4 McKee Island Brushed sherds; 3 Mississippi Plain jars; 1 Mississippi Plain bowl; 38 Mississippi Plain sherds; and 1 Wheeler Check Stamped sherd.

On January 15, 1986, human remains representing, at minimum, one individual were removed from site 1MA141, near the Whitesburg bridge in Madison County, AL. During phase 2 testing of a potential wastewater pipeline corridor in the Huntsville area, human remains representing one 40–50 year old Native American were encountered. This phase 2 test took place on land TVA had purchased on July 6, 1936. Artifacts recovered from site 1MA141 indicate occupations during the Early and Late Archaic periods. No known individuals were identified. No associated funerary objects are present.

TVA determined that cultural affiliation between human remains and associated funerary objects excavated from sites 1MA48, 1MA141, and 1LA13 and any present-day federally recognized tribes cannot be reasonably traced. Accordingly, these items are culturally unidentifiable, and TVA intends to transfer control of these items pursuant to 43 CFR 10.11(c).

At the time of the excavation and removal of these human remains and associated funerary objects, the land from which the human remains and objects were removed was not the tribal land of any federally recognized Indian tribe. On March 10, 2016, TVA consulted with all federally recognized Indian tribes who are recognized as aboriginal to the area from which these Native American human remains and associated funerary objects were removed. These tribes are the Cherokee Nation, Eastern Band of Cherokee Indians, and the United Keetoowah Band of Cherokee Indians in Oklahoma. None of these Indian tribes agreed to accept control of the human remains and associated funerary objects. After further consultation with the parties that were a part of this overall consultation, TVA has decided to transfer control of the human remains and associated funerary objects to The Chickasaw Nation.

Determinations Made by the Tennessee Valley Authority

Officials of TVA have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 292 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 2,637 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- Pursuant to 43 CFR 10.11(c)(1)(i), at the time of excavation of the human remains and associated funerary objects, the land from which the cultural items were removed was not the tribal land of any federally recognized Indian tribe.
- Pursuant to 43 CFR 10.11(c)(1)(ii), the following tribes are aboriginal to the area from which the cultural items were excavated: Cherokee Nation, Eastern Band of Cherokee Indians, and the United Keetoowah Band of Cherokee Indians in Oklahoma. None of these tribes agreed to accept control of the human remains or associated funerary objects.
- Pursuant to 43 CFR 10.11(c)(2)(i), TVA has decided to transfer control of the culturally unidentifiable human remains to The Chickasaw Nation.
- Pursuant to 43 CFR 10.11(c)(4), TVA has decided to transfer control of the culturally unidentifiable associated funerary objects to The Chickasaw Nation.

Additional Requestors and Disposition

Representatives of any federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT11D, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov,* by October 3, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Chickasaw Nation may proceed.

TVA is responsible for notifying the Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: August 10, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–21003 Filed 8–31–16; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21734; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Valley Authority, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Valley Authority (TVA) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate federally recognized Indian tribes, and has determined that a cultural affiliation between the human remains and associated funerary objects and present-day federally recognized Indian tribes can reasonably be traced. Lineal descendants or representatives of any federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to TVA. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the federally recognized

Indian tribes stated in this notice may proceed.

DATES: Lineal descendants or representatives of any federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to TVA at the address in this notice by October 3, 2016.

ADDRESSES: Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT11D, Knoxville TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of TVA. The human remains and associated funerary objects were removed from archeological sites in the Guntersville Reservoir in Jackson and Marshall Counties, AL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by TVA professional staff in consultation with the University of Alabama and representatives of the Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

The sites listed in this notice were excavated as part of TVA's Guntersville Reservoir project by the Alabama Museum of Natural History (AMNH) at the University of Alabama, using labor and funds provided by the Works Progress Administration. Details regarding these excavations and sites may be found in a report, *An Archaeological Survey of Guntersville Basin on the Tennessee River in Northern Alabama,* by William S. Webb and Charles G. Wilder. The human remains and associated funerary objects excavated from the sites listed in this notice have been in the physical custody of the AMNH at the University of Alabama since excavation but are under the control of TVA.

From January to April 1939, human remains representing, at minimum, 23 individuals were removed from the Crow Creek Island site, 1JA155, in Jackson County, AL. Excavation commenced after TVA acquired this land on June 30, 1938. Excavations revealed multiple occupations. The culturally affiliated NAGPRA cultural items are from the Crow Creek phase (circa A.D. 1400–1600) at the end of the Mississippian period. The human remains include adults, juveniles, and infants of both sexes. No known individuals were identified. The 657 associated funerary objects include 1 shell gorget; 2 shell ear plugs; 6 Mississippi Plain jars; 41 shell fragments; 1 shell pendant; 1 Barton Incised, var. Barton jar; 28 Mississippi Plain body sherds; 4 McKee Island Brushed jars; 2 Crow Creek Noded jars; 1 Mississippi Plain bird effigy bowls; 2 Mississippi plain bowls; 12 bone pins; 1 Mississippi Plain collared jar; 1 Bell Plain bottle; 36 Mississippi Plain jar sherds; 1 Bell Plain bowl; 12 bone awls; 1 McKee Island Incised jar; 1 McKee Island Punctate jar; 11 McKee Island Brushed bowl sherds; 1 Hillabee schist celt fragment; 1 Moundville Engraved, var. Maxwells Crossing carinated bottle; 6 shell spoon fragments; 51 turtle shell rattle fragments; and 433 shell barrel beads.

From October 1938 to January 1939, human remains representing, at minimum, nine individuals were removed from the Sublet Ferry site, 1JA102, three miles southeast of Hollywood in Jackson County, AL. Excavation commenced after TVA acquired a permit for archeological exploration on June 11, 1938. This land was subsequently purchase on October 17, 1938. Excavations revealed this to be a shell midden overlying a dark midden soil. Both Woodland and Mississippian occupations were identified. The culturally affiliated NAGPRA cultural items are from the Henry Island phase (circa A.D. 1200–1500) of the Mississippian period. The human remains include adults, juveniles, and children of both sexes. No known individuals were identified. The 2,148 associated funerary objects include 3 Baytown Plain sherds; 1 Bell Plain bottle; 5 bone awls; 15 bone pins; 4 bone splinters; 1 chipped stone adz/celt; 1 Cox style shell gorget; 1 discoidal; 1 Duck River projectile point or knife; 1 greenstone celt; 1 Hixon style shell gorget; 3 key-sided copper mace fragments; 37 lithic flakes; 1 Mississippi Plain bowl; 196 Mississippi Plain sherds; 2 Mississippi Plain jars; 1 Moundville Incised, var. Carrollton jar; 91 Moundville Incised, var. Carrollton jar sherds; 1,782 shell disc beads; and 1 shell gorget fragment.

From November 21 to 29, 1938, human remains representing, at minimum, one individual were removed from site 1MS106, 11 miles northeast of the city of Guntersville in Marshall County, AL. Excavation commenced after TVA purchased the land on April 21, 1937. Little is known about this site, except for a one paragraph reference to the excavation in a progress report indicating it was a rapid exploration that recovered three burials. Further, ceramics from this site indicate occupations during both the Woodland and Mississippian periods. The human remains represent a 12-year old individual of indeterminate sex. No known individual was identified. The 280 associate funerary objects include 1 McKee Island Brushed jar, 1 Bell Plain jar, 246 shell barrel beads, and 32 beads made from gastropod shells.

From June 1938 to May 1939, human remains representing, at minimum, 11 individuals were removed from the Columbus City Landing site, 1MS91, 9 miles northeast of the city of Guntersville in Marshall County, AL. Excavation commenced after TVA purchased the land on March 8, 1937. There were excavations in both the village (Unit I) and adjacent mounds (Unit II). Artifacts recovered from this excavation revealed that the primary occupations were during the Middle Woodland (A.D. 100–500), Mississippian (A.D. 1200–1500), and historic periods. The human remains include adults, juveniles, and children of both sexes. No known individuals were identified. The 5,435 associated funerary objects include 1 Bell Plain jar; 1 brass bangle; 1,182 brass beads; 12 brass bells; 5 brass bracelets; 3 brass cones; 1 brass disc; 27 brass fragments; 5 brass pendants; 2 brass rings; 11 copper/brass animal effigy ornaments; 4 copper bangles; 1 copper bead; 1 copper/brass disc; 1 copper-covered wooden earspool; 4,021 glass beads; 1 iron axe; 1 iron bracelet; 1 lead rifle ball; 1 McKee Island Cord-Marked sherd; 52 Mississippi Plain sherds; 94 shell beads;

3 shell earbobs; 1 shell gorget; 2 shell hairpins; and 1 shell pin.

Although there is no absolute certainty that Native Americans of the Mississippian period are directly related to modern federally recognized tribes, a relationship of shared group identity can reasonably be traced between these modern tribes and the human remains (and associated funerary objects) of the earlier culture identified as Mississippian. The preponderance of the evidence indicates that the cultural items from Mississippian and early historic occupations at 1MS91, 1MS106, 1JA102, and 1JA155 are culturally affiliated with Native Americans descendants of the Koasati/Kaskinampo. These descendants include the Alabama-Coushatta Tribe of Texas, the Alabama-Quassarte Tribal Town, the Coushatta Tribe of Louisiana, and the Muscogee (Creek) Nation. The evidence is as follows:

- Chronicles from Spanish explorers of the 16th century and French explorers of the 17th and 18th century indicates the presence of chiefdom level tribal entities in the southeastern United States which resemble the Mississippian chiefdoms.
- Linguistic analysis of place names noted by multiple Spanish explorers indicates that Koasati speaking groups inhabited northeastern Alabama.
- Early maps and research into the historic Native American occupation of northeastern Alabama indicates that the Koasati (as called by the English) or the Kaskinampo (as called by the French) were found at multiple sites in Jackson and Marshall Counties in the 17th and 18th centuries.
- Oral history, traditions and expert opinions of the descendants of Koasati/Kaskinampo indicate that this portion of the Tennessee River valley was a homeland of their tribe. The subsequent involuntary diaspora of these peoples resulted in descendants of the Koasati/Kaskinampo among multiple federally recognized tribes.

Determinations Made by the Tennessee Valley Authority

Officials of TVA have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 44 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 8,520 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects of the Mississippian and early historic occupations of these sites and the Coushatta Tribe of Louisiana, the Alabama-Coushatta Tribe of Texas, the Alabama-Quassarte Tribal Town and the Muscogee (Creek) Nation.

Additional Requestors and Disposition

Lineal descendants or representatives of any federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT11D, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov,* by October 3, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Alabama-Coushatta Tribe of Texas, the Alabama-Quassarte Tribal Town, the Coushatta Tribe of Louisiana, and the Muscogee (Creek) Nation may proceed.

TVA is responsible for notifying the Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma, that this notice has been published.

Dated: August 10, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–21004 Filed 8–31–16; 8:45 am]

BILLING CODE 4312–50–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–847 and 849 (Third Review)]

Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Japan and Romania; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty orders on carbon and alloy seamless standard, line, and pressure pipe from Japan and Romania would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Effective September 1, 2016. To be assured of consideration, the deadline for responses is October 3, 2016. Comments on the adequacy of responses may be filed with the Commission by November 15, 2016.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On June 26, 2000, the Department of Commerce (''Commerce'') issued an antidumping duty order on the imports of small and large diameter carbon and alloy seamless standard, line, and pressure pipe from Japan (65 FR 39360). On August 10, 2000, Commerce issued an antidumping duty order on the imports of large diameter carbon and alloy seamless standard, line, and pressure pipe from Romania (65 FR 48963). Following first five-year reviews by Commerce and the Commission, effective May 8, 2006, Commerce issued a continuation of the antidumping duty orders on imports of certain carbon and alloy seamless standard, line, and pressure pipe from Japan and Romania (71 FR 26746). Following second five-year reviews by Commerce and the Commission, effective October 11, 2011, Commerce issued a continuation of the antidumping duty orders on imports of certain carbon and alloy seamless standard, line, and pressure pipe from Japan and Romania (76 FR 62762). The Commission is now conducting third reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Japan and Romania.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, its full first five-year review determinations, and its expedited second five-year review determinations, the Commission found two *Domestic Like Products* corresponding to the two scopes of the investigations: Small diameter carbon and alloy seamless standard, line, and pressure pipe and large diameter carbon and alloy seamless standard, line, and pressure pipe. Certain Commissioners defined the *Domestic Like Product* differently in the original determinations.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, its full first five-year review determinations, and its expedited second five-year review determinations, the Commission found two *Domestic Industries:* A small diameter carbon and alloy seamless standard, line, and pressure pipe industry and a large diameter carbon and alloy seamless standard, line, and pressure pipe industry, encompassing all domestic producers of those products, respectively. Certain Commissioners defined the *Domestic Industry* differently in the original determinations.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 3, 2016. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is November 15, 2016. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the

Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 16–5–365, expiration date June 30, 2017. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: Please provide the requested information separately for each *Domestic Like Product,* as defined by the Commission in its original and previous review determinations, and for each of the products identified by Commerce as *Subject Merchandise.* If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Products,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industries* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industries.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Products.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2010.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Products* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Products* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Products,* provide the following information on your firm's operations on that product during calendar year 2015, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Products* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Products* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Products* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Products* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Products* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2015 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2015 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Products* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2010, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Products* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Products* and *Domestic Industries;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: August 24, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–20659 Filed 8–31–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–318 and 731–TA–538 and 561 (Fourth Review)]

Sulfanilic Acid From China and India; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the countervailing duty order on sulfanilic acid from India and antidumping duty orders on sulfanilic acid from China and India would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Effective September 1, 2016. To be assured of consideration, the deadline for responses is October 3, 2016. Comments on the adequacy of responses may be filed with the Commission by November 15, 2016.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background—On August 19, 1992, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of sulfanilic acid from China (57 FR 37524). On March 2, 1993, Commerce issued antidumping and countervailing duty orders on imports of sulfanilic acid from India (57 FR 12025 and 12026). Following five-year reviews by Commerce and the Commission, effective June 8, 2000, Commerce issued a continuation of the countervailing duty order on sulfanilic acid from India and the antidumping duty orders on sulfanilic acid from China and India (65 FR 36404). Following second five-year reviews by Commerce and the Commission, effective May 11, 2006, Commerce issued a continuation of the countervailing duty order on sulfanilic acid from India and the antidumping duty orders on sulfanilic acid from China and India (71 FR 27449). Following the third five-year reviews by Commerce and the Commission, effective October 25, 2011, Commerce issued a continuation of the countervailing duty order on imports of sulfanilic acid from India and the antidumping duty orders on imports of sulfanilic acid from China and India (76 FR 66039). The Commission is now conducting fourth reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are China and India.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, expedited first five-year review determinations, full second five-year review determinations, and expedited third five-year review determinations, the Commission defined the *Domestic Like Product* as all sulfanilic acid, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, expedited first five-year review determinations, full second five-year review determinations, and expedited third five-year review determinations, the Commission defined the *Domestic Industry* as all domestic producers of sulfanilic acid.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 3, 2016. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is November 15, 2016. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 16–5–366, expiration date June 30, 2017. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information to be provided in response to this notice of institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandis*e, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2010.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2015, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2015 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2015 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2010, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: August 24, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–20658 Filed 8–31–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed First Partial Remedial Design/Remedial Action (RD/RA) Consent Decree Under Cercla

On August 9, 2016, the Department of Justice lodged a proposed First Partial Remedial Design/Remedial Action (RD/RA) Consent Decree ("Consent Decree") with the United States District Court for the District of New Mexico, in the lawsuit entitled *United States and State of New Mexico, et al.* v. *Chevron Mining Inc.,* Civil Action No. 1:16–cv–00904.

The United States, on behalf of the U.S. Environmental Protection Agency, together with the State of New Mexico, filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") against Chevron Mining Inc. ("CMI"). The Defendant, CMI, is the owner and operator of the Chevron Questa Mine Superfund Site ("Site"), an inactive Molybdenum mine, located in Taos County, New Mexico. The complaint requests recovery of costs that the United States incurred responding to releases of hazardous substances at the Site. Under the proposed settlement, CMI agrees to pay $5,269,949 in past costs, to perform certain aspects of the remedial action selected by EPA for the Site, which are estimated to cost over $143 million, and to pay EPA's future costs associated with oversight of that work. Other aspects of the remedy will proceed at a later date. In return, the United States agrees not to sue CMI under sections 106 and 107 of CERCLA or under section 7003 of the Resource Conservation and Recovery Act for the work that CMI has agreed to perform.

The prior notice of lodging of this Consent Decree, published on August 15, 2016, stated that the Department of Justice would receive comments concerning the settlement for thirty days or until September 14, 2016. Having received a request for an extension of the initial public comment period, the United States is extending the comment period for an additional thirty (30) days, or until October 14, 2016.

The Department of Justice will receive, for a period of sixty (60) days from August 14, 2016, any comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Mexico, et al.* v. *Chevron Mining Inc.,* Civil Action No. 1:16–cv–00904, D.J. Ref. No. 90–11–3–10261. All comments must be submitted no later than October 14, 2016. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, DC 20044–7611.

Under section 7003(d) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973, a commenter may request an opportunity for a public meeting in the affected area.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $36.00 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $11.50.

Thomas P. Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–21068 Filed 8–31–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

183rd Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Teleconference Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 183rd open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held as a teleconference on September 27, 2016.

The meeting will take place in C5521 room 4, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Public access is available only in this room (*i.e.* not by telephone). The meeting will run from 9:00 a.m. to approximately 4:00 p.m. The purpose of the open meeting is to discuss reports/recommendations for the Secretary of Labor on the issues of (1) Cybersecurity Considerations for Benefit Plans and (2) Participant Plan Transfers and Account Consolidation for the Advancement of Lifetime Plan Participation. Descriptions of these topics are available on the Advisory Council page of the EBSA Web site at *http://www.dol.gov/ebsa/aboutebsa/erisa_advisory_council.html.*

Organizations or members of the public wishing to submit a written statement may do so by submitting 30 copies on or before September 20, 2016 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue NW., Washington, DC 20210. Statements also may be submitted as email attachments in rich text, Word, or pdf format transmitted to *good.larry@dol.gov*. It is requested that statements not be included in the body of an email. Statements deemed relevant by the Advisory Council and received on or before September 20 will be included in the record of the meeting and will be available to anyone by contacting the EBSA Public Disclosure Room. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed.

Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact the Executive Secretary by September 20, 2016 at the address indicated.

Signed at Washington, DC this 26th day of August, 2016.

Judith Mares,

Deputy Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2016–21015 Filed 8–31–16; 8:45 am]

BILLING CODE 4510–29–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 16–04]

Report on Countries That Are Candidates for Millennium Challenge Account Eligibility in Fiscal Year 2017 and Countries That Would Be Candidates but for Legal Prohibitions

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

Section 608(a) of the Millennium Challenge Act of 2003 requires the Millennium Challenge Corporation to publish a report that identifies countries that are "candidate countries" for Millennium Challenge Account assistance during FY 2017. The report is set forth in full below.

Dated: August 25, 2016.

Thomas G. Hohenthaner,

Acting VP/General Counsel and Corporate Secretary, Millennium Challenge Corporation.

Report on Countries That Are Candidates for Millennium Challenge Compact Eligibility for Fiscal Year 2017 and Countries That Would Be Candidates but for Legal Prohibitions

Summary

This report to Congress is provided in accordance with section 608(a) of the Millennium Challenge Act of 2003, as amended, 22 U.S.C. §§ 7701, 7707(a) (the Act).

The Act authorizes the provision of assistance for global development through the Millennium Challenge Corporation (MCC) for countries that enter into a Millennium Challenge Compact with the United States to support policies and programs that advance the progress of such countries to achieve lasting economic growth and poverty reduction. The Act requires MCC to take a number of steps in selecting countries with which MCC will seek to enter into a compact, including determining the countries that will be eligible countries for fiscal year (FY) 2017 based on (a) a country's demonstrated commitment to (i) just and democratic governance, (ii) economic freedom, and (iii) investments in its people; (b) the opportunity to reduce poverty and generate economic growth in the country; and (c) the availability of funds to MCC. These steps include the submission of reports to the congressional committees specified in the Act and the publication of notices in the **Federal Register** that identify:

The countries that are "candidate countries" for FY 2017 based on their per capita income levels and their eligibility to receive assistance under U.S. law and countries that would be candidate countries but for specified legal prohibitions on assistance (section 608(a) of the Act);

The criteria and methodology that the MCC Board of Directors (Board) will use to measure and evaluate the relative policy performance of the "candidate countries" consistent with the requirements of subsections (a) and (b) of section 607 of the Act in order to determine "eligible countries" from among the "candidate countries" (section 608(b) of the Act); and

The list of countries determined by the Board to be "eligible countries" for FY 2017, identification of such countries with which the Board will seek to enter into compacts, and a justification for such eligibility determination and selection for compact negotiation (section 608(d) of the Act).

This report is the first of three required reports listed above.

Candidate Countries for FY 2017

The Act requires the identification of all countries that are candidate countries for FY 2017 and the identification of all countries that would be candidate countries but for specified legal prohibitions on assistance. Under the terms of the Act, sections 606(a) and (b) set forth the two income tests countries must satisfy to be candidate countries.[1] However, for FY 2016, those categories were defined by MCC's FY 2016 appropriations act, the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016 (the FY 2016 SFOAA), which is found at Division K of the Consolidated Appropriations Act, 2016 (Pub. L. 114–113). Specifically, the FY 2016 SFOAA used the same definitions that have been used since the FY 2012 appropriations act and defines low income candidate countries as the 75 poorest countries as identified by the World Bank and provided that a country that changes during the fiscal year from low income to lower middle income (or vice versa) will retain its candidacy status in its former income category for the fiscal year of transition and the two subsequent fiscal years. Assuming these definitions will be used again for FY 2017, MCC is using them for purposes of this report.[2]

Under the redefined categories, a country will be a candidate country for FY 2017 if it:

Meets one of the following tests:

Has a per capita income that is not greater than the World Bank's lower middle income country threshold for such fiscal year ($4,035 gross national income per capita for FY 2017); and is among the 75 lowest per capita income countries, as identified by the World Bank; or

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[1] Sections 606(a) and (b) of the Act provide that a country will be a candidate country for purposes of eligibility if it (1) has a per capita income equal to or less than the historical ceiling of the International Development Association eligibility for the fiscal year involved (the "low income category") or (2) is classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and has an income greater than the historical ceiling for International Development Association eligibility for the fiscal year involved (the "lower middle income category"); and is not ineligible to receive U.S. economic assistance under part I of the Foreign Assistance Act of 1961, as amended (the Foreign Assistance Act), by reason of the application of the Foreign Assistance Act or any other provision of law.

[2] If the language relating to the definition of low income candidate countries is not enacted or is changed for MCC's FY 2017 appropriations act, MCC will revisit the selection process once the FY 2017 appropriations act is enacted and will conduct the selection process in accordance with the Act and applicable provisions for FY 2017.

Has a per capita income that is not greater than the World Bank's lower middle income country threshold for such fiscal year ($4,035 gross national income per capita for FY 2017); but is *not* among the 75 lowest per capita income countries as identified by the World Bank;

And

Is not ineligible to receive U.S. economic assistance under part I of the Foreign Assistance Act of 1961, as amended (the Foreign Assistance Act), by reason of the application of the Foreign Assistance Act or any other provision of law.

Due to the provisions requiring countries to retain their former income classification for three fiscal years, changes from the low income to lower middle income categories or vice versa for FY 2017 will go into effect for FY 2020. Countries transitioning to the upper middle income category do not remain in the candidate pool.[3]

Pursuant to section 606(c) of the Act, the Board identified the following countries as candidate countries under the Act for FY 2017. In so doing, the Board referred to the prohibitions on assistance to countries for FY 2016 under the FY 2016 SFOAA.

Candidate Countries: Low Income Category

Afghanistan
Bangladesh
Benin
Bhutan
Burkina Faso
Burundi
Cambodia
Cameroon
Central African Republic
Chad
Comoros
Cote d'Ivoire
Democratic Republic of Congo
Djibouti
Egypt
Ethiopia
Gambia
Ghana
Guatemala
Guinea
Guinea-Bissau
Haiti
Honduras
India
Kenya
Kiribati
Kyrgyz Republic
Lao PDR
Lesotho
Liberia
Madagascar
Malawi
Mali
Mauritania
Micronesia
Moldova
Morocco
Mozambique
Nepal
Nicaragua
Niger
Nigeria
Pakistan
Papua New Guinea
Philippines
Republic of Congo
Rwanda
Samoa
Sao Tome and Principe
Senegal
Sierra Leone
Solomon Islands
Somalia
Sri Lanka
Swaziland
Tajikistan
Tanzania
Togo
Uganda
Uzbekistan
Vanuatu
Vietnam
Yemen
Zambia

Candidate Countries: Lower Middle Income Category

Armenia
Cabo Verde
El Salvador
Indonesia
Kosovo
Mongolia
Timor Leste
Tongo
Tunisia
Ukraine

Countries That Would Be Candidates but for Legal Provisions That Prohibit Assistance

Countries that would be considered candidate countries for FY 2017, but are ineligible to receive United States economic assistance under part I of the Foreign Assistance Act by reason of the application of any provision of the Foreign Assistance Act or any other provision of law, are listed below. This list is based on legal prohibitions against economic assistance that apply as of July 22, 2016.

Prohibited Countries: Low Income Category

Bolivia is subject to foreign assistance restrictions pursuant to section 706(3) of the Foreign Relations Authorization Act, FY 2003 (P.L. 107–228), regarding adherence to obligations under international counternarcotics agreements and other counternarcotics measures.

Burma is subject to foreign assistance restrictions, including restrictions pursuant to section 570 of the FY 1997 Foreign Operations, Export Financing, and Related Programs Appropriations Act (P.L. 104–208), which prohibits assistance to the government of Burma until it makes measurable and substantial progress in improving human rights practices and implementing democratic governance.

Eritrea is subject to foreign assistance restrictions, including restrictions due to its status as a Tier 3 country under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. §§ 7101 et seq.).

North Korea is subject to foreign assistance restrictions, including restrictions pursuant to section 7007 of the FY 2016 SFOAA, which prohibits direct assistance to the government of North Korea.

South Sudan is subject to foreign assistance restrictions pursuant to section 7042(i)(2) of the FY 2016 SFOAA, which prohibits, with limited exceptions, assistance to the central government of South Sudan until the Secretary of State certifies and reports to Congress that such government is taking effective steps to end hostilities and pursue good faith negotiations for a political settlement of the internal conflict; provide access for humanitarian organizations; end the recruitment and use of child soldiers; protect freedoms of expression, association, and assembly; reduce corruption related to the extraction and sale of oil and gas; and establish democratic institutions, including accountable military and police forces under civilian authority.

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[3] In FY 2017, the World Bank updated its estimates of gross national incomes per capita resulting in Georgia graduating to upper middle income status after having been a low income candidate country as recently as FY 2015. Previously, Paraguay graduated to upper middle income status after having been a low income country for FY 2014. Both have transitioned to upper middle income status without the benefit of gradual reclassification. Further, in FY 2016, Mongolia experienced a similar reclassification to upper middle income status, removing its gradual reclassification benefit. Although Mongolia has re-entered the candidate pool for FY 2017, it does so as a lower middle income country and does not retain the gradual graduation benefit it would have had if it had not exited from the candidate pool for FY 2016. As a result, the removal of Georgia, Mongolia, and Paraguay from the low income category due to their classification as upper middle income countries means that there are only 72 low income countries for FY 2017 (eight of which are legally prohibited).

Sudan is subject to foreign assistance restrictions, including restrictions pursuant to section 7042(j) of the FY 2016 SFOAA, which prohibits (with limited exceptions) assistance to the government of Sudan.

Syria is subject to foreign assistance restrictions, including restrictions pursuant to section 7007 of the FY 2016 SFOAA, which prohibits direct assistance to the government of Syria.

Zimbabwe is subject to foreign assistance restrictions, including restrictions pursuant to section 7042(k)(2) of the FY 2016 SFOAA, which prohibits (with limited exceptions) assistance for the central government of Zimbabwe unless the Secretary of State certifies and reports to Congress that the rule of law has been restored, including respect for ownership and title to property, and freedoms of expression, association, and assembly.

Countries identified above as candidate countries, as well as countries that would be considered candidate countries but for the applicability of legal provisions that prohibit U.S. economic assistance, may be the subject of future statutory restrictions or determinations, or changed country circumstances, that affect their legal eligibility for assistance under part I of the Foreign Assistance Act by reason of application of the Foreign Assistance Act or any other provision of law for FY 2017.

[FR Doc. 2016–21057 Filed 8–29–16; 11:15 am]

BILLING CODE 9211–03–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (16–062)]

Notice of Intent To Grant a Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant partially exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license in the United States to practice the inventions described and claimed in U.S. Patent No. 7,075,295 entitled "Magnetic Field Response Sensor for Conductive Media," NASA Case No. LAR–16571–1; U.S. Patent No. 7,589,525 entitled "Magnetic Field Response Sensor for Conductive Media," NASA Case No. LAR–16571–2; and U.S. Patent No. 7,759,932 entitled "Magnetic Field Response Sensor for Conductive Media," NASA Case No. LAR–16571–3, to Remcal Products having its principal place of business in Warrington, PA. The fields of use may be limited to, but not necessarily limited to, nondestructive evaluation and testing of manufactured products (including molded plastic parts, rubber parts, extruded parts and machined parts) using hand-held probes and/or custom-designed test assemblies. The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective partially exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR. 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated partially exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, NASA Langley Research Center, MS 30, Hampton, VA 23681; (757) 864–3230 (phone), (757) 864–9190 (fax).

FOR FURTHER INFORMATION CONTACT: Robin W. Edwards, Patent Counsel, Office of Chief Counsel, NASA Langley Research Center, MS 30, Hampton, VA 23681; (757) 864–3230; Fax: (757) 864–9190. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Mark P. Dvorscak,

Agency Counsel for Intellectual Property.

[FR Doc. 2016–21018 Filed 8–31–16; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (16–061)]

Notice of Intent To Grant Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant partially exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license in the United States to practice the invention described and claimed in U.S. Patent Application Serial No. 14/702,317 entitled "Foldable and Deployable Power Collection System", Case Number MFS–33182–1 to Nexolve Corporation, having its principal place of business in Huntsville, Alabama (USA). The fields of use may be limited to field(s) of use in In-Space/High Altitude Power Generation. The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: The prospective partially exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Mr. James J. McGroary, Chief Counsel/LS01, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–0013.

FOR FURTHER INFORMATION CONTACT: Mr. Sammy A. Nabors, Technology Transfer

Office/ZP30, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–5226.

Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Mark P. Dvorscak,

Agency Counsel for Intellectual Property.

[FR Doc. 2016–21017 Filed 8–31–16; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Agency Information Collection Activities: Proposed Collection; Comment Request: Blanket Justification for NEA Funding Application Guidelines and Reporting Requirements

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Proposed collection; comments request.

SUMMARY: The National Endowment for the Arts (NEA) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: *Blanket Justification for NEA Funding Application Guidelines and Reporting Requirements.* Copies of this ICR, with applicable supporting documentation, may be obtained by visiting *www.Reginfo.gov.*

DATES: Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503 202/395–7316, within 30 days from the date of this publication in the **Federal Register**.

The Office of Management and Budget (OMB) is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Could help minimize the burden of the collection of information on those who are to respond, including through the use of electronic submission of responses through *Grants.gov.*

SUPPLEMENTARY INFORMATION: The National Endowment for the Arts requests the review of all of its funding application guidelines and grantee reporting requirements. This entry is issued by the National Endowment for the Arts and contains the following information: (1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Agency: National Endowment for the Arts.

Title: Blanket Justification for NEA Funding Application Guidelines and Reporting Requirements.

OMB Number: 3135–0112.

Frequency: Annually.

Affected Public: Nonprofit organizations, government agencies, and individuals.

Estimated Number of Respondents: 6,553.

Estimated Time per Respondent: 21 hours (applications)/10 hours (reports).

Total Burden Hours: 163,049.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (Operating/Maintaining Systems or Purchasing Services): 0.

DESCRIPTION: Guideline instructions and applications elicit relevant information from individuals, nonprofit organizations, and government arts agencies that apply for funding from the National Endowment for the Arts. This information is necessary for the accurate, fair, and thorough consideration of competing proposals in the review process. According to OMB 2 CFR part 200, recipients of federal funds are required to report on project activities and expenditures. Reporting requirements are necessary to ascertain that grant projects have been completed, and that all terms and conditions have been fulfilled.

Dated: August 26, 2016.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations, National Endowment for the Arts.

[FR Doc. 2016–21016 Filed 8–31–16; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Cyberinfrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

NAME AND COMMITTEE CODE: Advisory Committee for Cyberinfrastructure (25150).

DATE AND TIME: Oct 11, 2016; 9:00 a.m.–5:15 p.m.; Oct 12, 2016; 8:30 a.m.–1:30 p.m.

PLACE: National Science Foundation, 4201 Wilson Blvd., Stafford I—Room 1235, Arlington, VA 22230.

TYPE OF MEETING: Open.

CONTACT PERSON: Amy Friedlander, CISE, Division of Advanced Cyberinfrastructure, National Science Foundation, 4201 Wilson Blvd., Suite 1145, Arlington, VA 22230; Telephone: 703–292–8970.

MINUTES: May be obtained from the contact person listed above.

PURPOSE OF MEETING: To advise NSF on the impact of its policies, programs and activities in the ACI community. To provide advice to the Director/NSF on issues related to long-range planning.

AGENDA: Updates on NSF wide ACI activities.

Dated: August 26, 2016.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2016–21043 Filed 8–31–16; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–373 and 50–374; NRC–2014–0268]

Exelon Generation Company, LLC; LaSalle County Station, Units 1 and 2; License Renewal

AGENCY: Nuclear Regulatory Commission.

ACTION: Supplemental environmental impact statement; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a final plant-specific supplement, Supplement 57, to NUREG–1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (GEIS), regarding the renewal of Exelon Generation Company, LLC, operating licenses NPF–11 and NPF–18 for an additional 20 years of operation for LaSalle County Station, Units 1 and 2 (LSCS).

DATES: Final Supplement 57 to the GEIS is available as of September 1, 2016.

ADDRESSES: Please refer to Docket ID NRC–2014–0268 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0268. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* Final Supplement 57 to the GEIS is available in ADAMS under Accession No. ML16238A029.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: William Ford, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 1–800–368–5642, extension 1263; email: *William.Ford@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 51.118 of title 10 of the *Code of Federal Regulations,* the NRC is making available for public inspection, final Supplement 57 to the GEIS regarding the renewal of Exelon Generation Company, LLC, operating licenses NPF–11 and NPF–18 for an additional 20 years of operation for LSCS. Draft Supplement 57 to the GEIS was noticed by the NRC in the **Federal Register** on February 11, 2016 (81 FR 7378), and was noticed by the Environmental Protection Agency on February 19, 2016 (81 FR 8490). The public comment period on draft Supplement 57 to the GEIS ended on April 4, 2016. The NRC received 11 public comment submissions from State and Federal government organizations, public interest organizations, private citizens, and the licensee. The comments received on the draft Supplement 57 were addressed in the final Supplement 57 to the GEIS.

II. Discussion

As discussed in Chapter 5 of the final Supplement 57 to the GEIS, the NRC determined that the adverse environmental impacts of license renewal for LSCS are not so great that preserving the option of license renewal for energy-planning decision makers would be unreasonable. This recommendation is based on: (1) The analysis and findings in the GEIS; (2) information provided in the environmental report and other documents submitted by Exelon Generation Company, LLC; (3) consultation with Federal, State, local, and Tribal government agencies; (4) the NRC staff's independent environmental review; and (5) consideration of public comments received during the scoping process and on the draft Supplement 57 to the GEIS.

Dated at Rockville, Maryland, this 26th day of August, 2016.

For the Nuclear Regulatory Commission.

James G. Danna,

Chief, Environmental Review and Projects Branch, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–21055 Filed 8–31–16; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78701; File No. SR–CTA/CQ–2016–01]

Consolidated Tape Association; Notice of Filing and Immediate Effectiveness of Amendment No. 26 to the Second Restatement of the CTA Plan and Amendment No. 19 to the Restated CQ Plan To Add the Investors Exchange LLC as a Participant

August 26, 2016.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 ("Exchange Act") [1] and Rule 608 thereunder,[2] notice is hereby given that on August 11, 2016 the Participants in the Second Restatement of the Consolidated Tape Association ("CTA") Plan and the Restated Consolidated Quotation ("CQ") Plan ("CTA/CQ Plans") [3] filed with the Securities and Exchange Commission ("Commission") [4] an amendment to the Plans to add Investors Exchange LLC ("IEX") as a Participant [5] to the Plans. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

I. Description and Purpose of the Plan Amendment

As noted above, the amendment to the Plans adds the IEX as a Participant. On June 17, 2016, the Commission issued an order granting IEX's application for registration as a national securities exchange.[6] A condition of the Commission's approval was the requirement for IEX to join the Plans.

Under Section III(c) of the Plan, any national securities association or national securities exchange, may become a Participant by (i) subscribing to, and submitting for filing with the Commission, the Plan; (ii) executing all applicable contracts made pursuant to the Plan, or necessary to its participation; (iii) paying the applicable "Participation Fee;" and (iv) paying "provisioning costs to the Processor." The amendment is effective upon filing with the Commission in accordance with Rule 608 of Regulation NMS.[7]

IEX has satisfied all requirements under the Plans, and has executed a copy of the Plans currently in effect, with the only change being the addition of its name to the CTA and CQ plans. Accordingly, all of the Plan requirements for effecting an amendment to the Plans to add IEX as a Participant have been satisfied.

II. Effectiveness of the Proposed Plan Amendment

The foregoing Plan amendments have become effective pursuant to Rule 608(b)(3)(iii) of the Exchange Act [8] because they involve solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (a)(1) of Rule 608,[9] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Exchange Act.

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[1] 15 U.S.C 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] *See* Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (May 20, 1974) (declaring the CTA Plan effective); 15009 (July 28, 1978), 43 FR 34851 (August 7, 1978) (temporarily authorizing the CQ Plan); and 16518 (January 22, 1980), 45 FR 6521 (January 28, 1980) (permanently authorizing the CQ Plan). The most recent restatement of both Plans was in 1995.

[4] *See* Letter from Emily Kasparov, Chairman, Operating Committee, CTA/CQ Plan, to Brent J. Fields, Secretary, Securities and Exchange Commission, dated August 10, 2016.

[5] The term "Participant" is defined as a party to the Plan.

[6] *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016).

[7] The parallel provision in the CQ Plan is Section III(c).

[8] 17 CFR 242.608(b)(3)(iii).

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amendment is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CTA/CQ–2016–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CTA/CQ–2016–01.This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Chicago Stock Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CTA/CQ–2016–01 and should be submitted on or before September 22, 2016.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2016–21022 Filed 8–31–16; 8:45 am]

BILLING CODE 8011–01–P

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[9] 17 CFR 242.608(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78700; File No. S7–24–89]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment No. 37 to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis To Add the Investors Exchange LLC as a Participant

August 26, 2016.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 608 thereunder,[2] notice is hereby given that on August 11, 2016 the Participants in the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis ("NASDAQ/UTP Plan" or "Plan")[3] filed with the Securities and Exchange Commission ("Commission")[4] an amendment to the Plan to add Investors Exchange LLC ("IEX") as a Participant[5] to the Plan. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

I. Description and Purpose of the Plan Amendment

As noted above, the amendment to the Plan adds the IEX as a Participant. On June 17, 2016, the Commission issued an order granting IEX's application for registration as a national securities exchange.[6] A condition of the Commission's approval was the requirement for IEX to join the Plan.

Under Section I.B of the Plan, any other national securities association or national securities exchange, in whose market Eligible Securities become traded, may become a Participant, provided that said organization executes a copy of the Plan and pays its share of development costs, as specified in the Plan. The amendment is effective upon filing with the Commission in accordance with Rule 608 of Regulation NMS.

IEX has satisfied all requirements under the Plan, and has executed a copy of the Plan currently in effect, with the only change being the addition of its name to the Plan. Accordingly, all of the Plan requirements for effecting an amendment to the Plan to add IEX as a Participant have been satisfied.

II. Effectiveness of the Proposed Plan Amendment

The foregoing Plan amendment has become effective pursuant to Rule 608(b)(3)(iii) of the Exchange Act[7] because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (a)(1) of Rule 608,[8] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Exchange Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amendment is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–24–89 on the subject line.

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[1] 15 U.S.C. 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] *See, e.g.,* Securities Exchange Act Release No. 55647 (April 19, 2007) 72 FR 20891 (April 26, 2007).

[4] *See* Letter from Emily Kasparov, Chairman, Operating Committee, NASDAQ UTP Plan, to Brent J. Fields, Secretary, Securities and Exchange Commission, dated August 10, 2016.

[5] The term "Participant" is defined as a registered national securities exchange or national securities association that is a signatory to the Plan

[6] *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016).

[7] 17 CFR 242.608(b)(3)(iii).

[8] 17 CFR 242.608(a)(1).

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–24–89. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Chicago Stock Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number S7–24–89 and should be submitted on or before September 22, 2016.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2016–21021 Filed 8–31–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–32239]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

August 26, 2016.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of August 2016. A copy of each application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 20, 2016, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Hae-Sung Lee, Attorney-Adviser, at (202) 551–7345 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE., Washington, DC 20549–8010.

American Funds Tax-Exempt Series I [File No. 811–04653]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Tax-Exempt Bond Fund of America and, on June 17, 2016, made a final distribution to its shareholders based on net asset value. Expenses of $161,000 incurred in connection with the reorganization were paid by applicant's investment adviser.

Filing Date: The application was filed on June 20, 2016.

Applicant's Address: 6455 Irvine Center Drive, Irvine, California 92618.

Newmark Risk-Managed Opportunistic Fund [File No. 811–08993]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 31, 2015, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $350 incurred in connection with the liquidation were paid by applicant's investment adviser.

Filing Date: The application was filed on June 21, 2016.

Applicant's Address: 2806 Flintrock Trace, Suite A204, Austin, Texas 78738.

Berwyn Funds [File No. 811–04963]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Investment Managers Series Trust and, on April 29, 2016, made a final distribution to its shareholders based on net asset value. Expenses of $780,729 incurred in connection with the reorganization were paid by applicant's investment adviser.

Filing Date: The application was filed on July 27, 2016.

Applicant's Address: c/o Chartwell Investment Partners, LLC, 1189 Lancaster Avenue, Berwyn, Pennsylvania 19312.

Paramount Institutional Access Fund [File No. 811–22580]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on July 28, 2016, and amended on August 19, 2016.

Applicant's Address: c/o Paramount Access Advisors, LLC, Millennium Tower, Suite 1200, 15455 N. Dallas Pkwy, Addison, Texas 75001.

Paramount Access Fund [File No. 811–22579]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on July 28, 2016.

Applicant's Address: c/o Paramount Access Advisors, LLC, Millennium Tower, Suite 1200, 15455 N. Dallas Pkwy, Addison, Texas 75001.

Dreyfus Municipal Money Market Fund, Inc. [File No. 811–02946]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to General Municipal Money Market Fund and, on November 13, 2015, made a final distribution to its shareholders based on net asset value. Expenses of $169,000 incurred in connection with the reorganization were paid by applicant's investment adviser.

Filing Dates: The application was filed on July 26, 2016, and amended on August 4, 2016 and August 19, 2016.

Applicant's Address: 200 Park Avenue, New York, New York 10166.

Philadelphia Investment Partners New Generation Fund [File No. 811–22395]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 30, 2016, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $750 incurred in connection with the liquidation were paid by applicant's investment adviser.

Filing Date: The application was filed on August 5, 2016.

Applicant's Address: 1233 Haddonfield—Berlin Road, Suite #7, Voorhees, New Jersey 08043.

Bluepoint Investment Series Trust [File No. 811–22723]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On August 5, 2016, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $4,500 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on August 5, 2016.

Applicant's Address: 350 Madison Avenue, 9th Floor, New York, NY 10017.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2016–21026 Filed 8–31–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78703; File No. 4–631]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Plan To Address Extraordinary Market Volatility To Add the Investors Exchange LLC as a Participant

August 26, 2016.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 608 thereunder,[2] notice is hereby given that on August 11, 2016 Investors Exchange LLC ("IEX" or "Exchange") filed with the Securities and Exchange Commission ("Commission")[3] an amendment to the Plan to Address Extraordinary Market Volatility ("Plan").[4] The amendment adds IEX as a Participant[5] to the Plan. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

I. Description and Purpose of the Plan Amendment

As noted above, the sole proposed amendment to the Plan is to add the Exchange as a Participant. On June 17, 2016, the Commission issued an order granting IEX's application for registration as a national securities exchange.[6] A condition of the Commission's approval was the requirement for IEX to join the Plan.

Under Section II(C) of the Plan, any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Participant by: (1) Executing a copy of the Plan, as then in effect; (2) providing each then-current Participant with a copy of such executed Plan; and (3) effecting an amendment to the Plan as specified in Section III(B) of the Plan. Section III(B) of the Plan sets forth the process for a prospective new Participant to effect an amendment of the Plan. Specifically, the Plan provides that such an amendment to the Plan may be effected by the new national securities exchange or national securities association by executing a copy of the Plan as then in effect (with the only change being the addition of the new Participant's name in Section II(A) of the Plan); and submitting such executed Plan to the Commission. The amendment will be effective when it is approved by the Commission in accordance with Rule 608 of Regulation NMS, or otherwise becomes effective pursuant to Rule 608 of Regulation NMS.

IEX has executed a copy of the Plan currently in effect, with the only change being the addition of its name in Section II(A) of the Plan, and has provided a copy of the Plan executed by IEX to each of the other Participants. IEX has also submitted the executed Plan to the Commission. Accordingly, all of the Plan requirements for effecting an amendment to the Plan to add IEX as a Participant have been satisfied.

II. Effectiveness of the Proposed Plan Amendment

The foregoing Plan amendment has become effective pursuant to Rule 608(b)(3)(iii) of the Exchange Act[7] because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (a)(1) of Rule 608,[8] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Exchange Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amendment is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number 4–631 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number 4–631.This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of IEX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4–631 and should be submitted on or before September 22, 2016.

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[1] 15 U.S.C. 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] *See* Letter from Claudia Crowley, Chief Regulatory Officer, Investors Exchange LLC, to Brent J. Fields, Secretary, Securities and Exchange Commission, dated August 11, 2016.

[4] On May 6, 2015, the Commission issued an order approving the Plan on a one-year Pilot basis (the "Approval Order"). *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The Plan was subsequently amended several times to extend the pilot period, among other things, with the current Plan set to expire on April 21, 2017. *See* Securities Exchange Act Release No. 77679 (April 21, 2016), 81 FR 24908 (April 27, 2016) (order approving tenth amendment to Plan).

[5] The term "Participant" is defined as a party to the Plan.

[6] *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016).

[7] 17 CFR 242.608(b)(3)(iii).

[8] 17 CFR 242.608(a)(1).

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2016–21024 Filed 8–31–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78704; File No. 4–518]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Plan Establishing Procedures Under Rule 605 of Regulation NMS To Add the Investors Exchange LLC as a Participant

August 26, 2016.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 608 thereunder,[2] notice is hereby given that on August 11, 2016, Investors Exchange LLC ("IEX" or "Exchange") filed with the Securities and Exchange Commission ("Commission")[3] an amendment to the national market system plan establishing procedures under Rule 605 of Regulation NMS ("Plan").[4] The amendment adds IEX as a Participant[5] to the Plan. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

I. Description and Purpose of the Plan Amendment

As noted above, the sole proposed amendment to the Plan is to add the Exchange as a Participant. On June 17, 2016, the Commission issued an order granting IEX's application for registration as a national securities exchange.[6] A condition of the Commission's approval was the requirement for IEX to join the Plan.

Under Section II(c) of the Plan, any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Participant by: (i) Executing a copy of the Plan, as then in effect; (ii) providing each then-current Participant with a copy of such executed Plan; and (iii) effecting an amendment to the Plan as specified in Section III(b) of the Plan. Section III(b) of the Plan sets forth the process for a prospective new Participant to effect an amendment of the Plan. Specifically, the Plan provides that such an amendment to the Plan may be effected by the new national securities exchange or national securities association by executing a copy of the Plan, as then in effect (with the only changes being the addition of the new Participant's name in Section II(a) of the Plan and the new Participant's single-digit code in Section VI(a)(1) of the Plan) and submitting such executed Plan to the Commission. The amendment will be effective when it is approved by the Commission in accordance with Rule 608 of Regulation NMS, or otherwise becomes effective pursuant to Rule 608 of Regulation NMS.

IEX has executed a copy of the Plan currently in effect, with the only changes being the addition of its name in Section II(a) of the Plan and adding its single-digit code in Section VI(a)(1) of the Plan, and has provided a copy of the Plan executed by IEX to each of the other Participants. IEX has also submitted the executed Plan to the Commission. Accordingly, all of the Plan requirements for effecting an amendment to the Plan to add IEX as a Participant have been satisfied.

II. Effectiveness of the Proposed Plan Amendment

The foregoing Plan amendment has become effective pursuant to Rule 608(b)(3)(iii) of the Exchange Act[7] because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (a)(1) of Rule 608,[8] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Exchange Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amendment is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number 4–518 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number 4–518. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the IEX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4–518 and should be submitted on or before September 22, 2016.

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[1] 15 U.S.C 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] *See* Letter from Claudia Crowley, Chief Regulatory Officer, Investors Exchange LLC, to Brent J. Fields, Secretary, Commission, dated August 11, 2016.

[4] 17 CFR 242.605. On April 12, 2001, the Commission approved a national market system plan for the purpose of establishing procedures for market centers to follow in making their monthly reports available to the public under Rule 11Ac1–5 under the Exchange Act (n/k/a Rule 605 of Regulation NMS). *See* Securities Exchange Act Release No. 44177 (April 12, 2001), 66 FR 19814 (April 17, 2001).

[5] The term "Participant" is defined as a party to the Plan.

[6] *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016).

[7] 17 CFR 242.608(b)(3)(iii).

[8] 17 CFR 242.608(a)(1).

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2016–21025 Filed 8–31–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78702; File No. 4–657]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Plan To Implement a Tick Size Pilot Program To Add the Investors Exchange LLC as a Participant

August 26, 2016.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 608 thereunder,[2] notice is hereby given that on August 5, 2016 Investors Exchange LLC ("IEX" or "Exchange") filed with the Securities and Exchange Commission ("Commission")[3] an amendment to the Plan to Implement a Tick Size Pilot Program ("Plan").[4] The amendment adds IEX as a Participant[5] to the Plan. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

I. Description and Purpose of the Plan Amendment

As noted above, the sole proposed amendment to the Plan is to add the Exchange as a Participant. On June 17, 2016, the Commission issued an order granting IEX's application for registration as a national securities exchange.[6] A condition of the Commission's approval was the requirement for IEX to join the Plan.

Under Section II(C) of the Plan, any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Participant by: (1) Executing a copy of the Plan, as then in effect; (2) providing each then-current Participant with a copy of such executed Plan; and (3) effecting an amendment to the Plan as specified in Section III(B) of the Plan. Section III(B) of the Plan sets forth the process for a prospective new Participant to effect an amendment of the Plan. Specifically, the Plan provides that such an amendment to the Plan may be effected by the new national securities exchange or national securities association by executing a copy of the Plan as then in effect (with the only change being the addition of the new Participant's name in Section II(A) of the Plan); and submitting such executed Plan to the Commission. The amendment will be effective when it is approved by the Commission in accordance with Rule 608 of Regulation NMS, or otherwise becomes effective pursuant to Rule 608 of Regulation NMS.

IEX has executed a copy of the Plan currently in effect, with the only change being the addition of its name in Section II(A) of the Plan, and has provided a copy of the Plan executed by IEX to each of the other Participants. IEX has also submitted the executed Plan to the Commission. Accordingly, all of the Plan requirements for effecting an amendment to the Plan to add IEX as a Participant have been satisfied.

II. Effectiveness of the Proposed Plan Amendment

The foregoing Plan amendment has become effective pursuant to Rule 608(b)(3)(iii) of the Exchange Act[7] because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (a)(1) of Rule 608,[8] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Exchange Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amendment is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number 4–657 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number 4–657.This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of IEX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4–657 and should be submitted on or before September 22, 2016.

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[1] 15 U.S.C. 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] *See* Letter from Claudia Crowley, Chief Regulatory Officer, Investors Exchange LLC, to Brent J. Fields, Secretary, Securities and Exchange Commission, dated August 5, 2016.

[4] On May 6, 2015, the Commission issued an order approving the Plan, as modified by the Commission, to be implemented within one year after the date of publication of the Order for a two-year Pilot Period (the "Approval Order"). *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015). Thereafter, in November 2015, the Commission issued an order granting the Participants an exemption from implementing the Plan until October 3, 2016. *See* Securities Exchange Act Release No. 76382 (November 6, 2015), 80 FR 70284 (November 13, 2015).

[5] The term "Participant" is defined as a party to the Plan.

[6] *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016).

[7] 17 CFR 242.608(b)(3)(iii).

[8] 17 CFR 242.608(a)(1).

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2016–21023 Filed 8–31–16; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 9692]

60-Day Notice of Proposed Information Collection: Medical Clearance Update

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to October 31, 2016.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering "Docket Number: DOS–2016–0057" in the Search field. Then click the "Comment Now" button and complete the comment form.
- *Email: GrewJF@state.gov.*
- *Regular Mail:* Send written comments to: Department of State, Bureau of Medical Services—Medical Clearances, SA–15 Room 400, 1800 North Kent St., Rosslyn, VA 22209.
- *Fax:* 703–875–5412.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Joan F. Grew, who may be reached on 703–875–5412 or at *GrewJF@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Medical Clearance Update.
- *OMB Control Number:* 1405–0131.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Medical Services (MED).
- *Form Number:* DS–3057.
- *Respondents:* Foreign service officers, federal employees, or family members.
- *Estimated Number of Respondents:* 16,280.
- *Estimated Number of Responses:* 16,280.
- *Average Time per Response:* 30 minutes.
- *Total Estimated Burden Time:* 8,140 hours.
- *Frequency:* As needed.
- *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: Form DS–3057 is designed to collect medical information to provide medical providers with current and adequate information to base decisions on whether a federal employee and family members will have sufficient medical resources at a diplomatic mission abroad to maintain the health and fitness of the individual and family members.

Methodology: The information collected will be collected through the use of an electronic forms engine or by hand written submission using a pre-printed form.

Dated: August 23, 2016.

Ernest E. Davis,

Director of Medical Clearances, Bureau of Medical Services Department of State.

[FR Doc. 2016–20679 Filed 8–31–16; 8:45 am]

BILLING CODE 4710–36–P

DEPARTMENT OF STATE

[Public Notice: 9698]

Executive Order 13224 Designation of Abdiqadir Mumin, aka Sheikh Abdikadir Mumin, aka Sheiky Abdulqadir Mumin, aka Sheikh Abdulqadir Mumin, aka Abdul Qadir Mumin, aka Sheikh Abdiqadir Mumin Yusuf, aka Sheikh Abdulkadir Mumin, aka Abdul Nadir Mumin, aka Abdul Qadr Mu'min as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Abdiqadir Mumin, also known as Sheikh Abdikadir Mumin, also known as Sheiky Abdulqadir Mumin, also known as Sheikh Abdulqadir Mumin, also known as Abdul Qadir Mumin, also known as Sheikh Abdiqadir Mumin Yusuf, also known as Sheikh Abdulkadir Mumin, also known as Abdul Nadir Mumin, also known as Abdul Qadr Mu'min committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: August 11, 2016.

John F. Kerry,

Secretary of State.

[FR Doc. 2016–21088 Filed 8–31–16; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Delegation of Authority No. 402]

Delegation of the Authority To Submit Report Pursuant to Section 1247 of Public Law 114–92

By virtue of the authority vested in the Secretary of State by subparagraph (a)(4) of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a) and the Presidential Memorandum of July 26, 2016, I hereby delegate to the Under Secretary for Arms Control and International Security, to the extent authorized by law, the authority to submit the recurring report required by Section 1247 of the National Defense Authorization Act for Fiscal Year 2016, Pub. L. 114–92, concerning the reasons that the continued implementation of the New START Treaty is in the national security interests of the United States.

Notwithstanding this delegation of authority, the authorities delegated herein may be exercised by the Secretary, the Deputy Secretary, or the Deputy Secretary for Management and Resources. Any reference in this delegation of authority to any statute or delegation of authority shall be deemed to be a reference to such statute or delegation of authority as amended from time to time.

This delegation of authority shall be published in the **Federal Register**.

Dated: August 18, 2016.

John F. Kerry,

Secretary of State.

[FR Doc. 2016–21086 Filed 8–31–16; 8:45 am]

BILLING CODE 4710–35–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA Approval of Noise Compatibility Program; Boise Air Terminal (Gowen Field) Boise, Idaho

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings (Record of Approval) on the noise compatibility program submitted by the City of Boise, Idaho for the Boise Air Terminal (Gowen Field) under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR part 150 (Part 150). On May 2, 2016, the FAA determined that the noise exposure maps submitted by the City of Boise for the Boise Air Terminal under Part 150 were in compliance with applicable requirements. On August 24, 2016 the FAA approved the *Boise Airport Noise Compatibility Program.* Seven of the 13 measures recommended in the noise compatibility plan were approved and six measures were disapproved for the purposes of Part 150. In addition, 22 measures were included in the noise compatibility plan that requested no FAA action as they were approved in a previous record of approval, were removed from consideration, or disapproved in a previous record of approval. These measures and FAA's associated determinations are summarized in the attachment to the Record of Approval.

DATES: *Effective Date:* The effective date of the FAA's approval of the *Boise Airport Noise Compatibility Program* is August 24, 2016.

FOR FURTHER INFORMATION CONTACT: Scott Eaton, Federal Aviation Administration, Helena Airports District Office, FAA Building, Suite 2, 2725 Skyway Drive, Helena, MT 59602–1213, telephone 406–449–5291. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for the Boise Air Terminal, effective August 24, 2016.

Under section 47504 of the Act, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with the Part 150 regulations is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental review of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Helena Airports District Office in Helena, Montana. The City of Boise submitted to the FAA on December 21, 2015, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study for the Boise Air Terminal conducted in 2014 and 2015. The Boise Air Terminal noise exposure maps were determined by FAA to be in compliance with applicable requirements on May 2, 2016.

Notice of this determination was published in the **Federal Register** on May 10, 2016 (FR Volume 81, No. 90, pages 28933–28934) and as corrected on May 16, 2016 (FR Volume 81, No. 94, pages 30414–30415).

Comments received during the noise compatibility planning public process were addressed in the final noise compatibility program submitted to FAA. In addition, seven sets of comments were received during the 60-day public comment period for the *Boise Airport Noise Compatibility Program* that ended July 1, 2016. None of the comments warranted any changes to the NCP. The comment letters and the responses to the comments, which were reviewed and acceptable to FAA, are posted on the airport's Web site at *http://www.iflyboise.com/about-boi/noise-compatibility-program/.*

The majority of the comments received during the 60-day comment period for the noise compatibility program regarded military aircraft. It is important to note that the Part 150 study process has no bearing on whether or not, or what type of military jets will be stationed at the Boise Air Terminal in the future. Since the future of the Idaho Air National Guard (IDANG) current A–10 mission is uncertain, the Boise Air Terminal, in conjunction with IDANG, prepared a hypothetical future forecast using the F–15E as a potential replacement for the A–10. However, the Department of the Air Force has not yet determined IDANG's follow-on mission after A–10 divestiture and therefore the sponsor lacked sufficient data to confirm the F–15E as the replacement for the A–10. It was noted in the Part 150 study that there are transient F–15E's that use the Boise Air Terminal throughout the year. Acknowledging this, the sponsor developed the 2015 noise exposure maps to include the transient F–15E Strike Eagles, among many other existing Boise Air Terminal aircraft, in the Noise Model. All measures proposed in the noise compatibility program are based on the current year noise exposure maps and not on future noise exposure maps as they are considered speculative at this time as well. The Record of Approval also does not specifically tie the proposed noise mitigation measures to the 2015 noise exposure maps as shown in the Part 150 Study. When the fleet mix and/or operational levels at the Boise Air Terminal change, the sponsor will update the noise exposure maps to reflect that change in accordance with Part 150 regulations. Furthermore, any change in aircraft by the Department of Defense will require compliance with the National Environmental Policy Act (NEPA).

The Boise Air Terminal study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 47504 of the Act. The FAA began its review of the program on December 13, 2015, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 1 noise abatement measure and 12 noise mitigation/land use compatibility measures recommendations for FAA action. The FAA completed its review and determined that the procedural and substantive requirements of the Act and Part 150 have been satisfied. The overall program therefore, was approved by the FAA on August 24, 2016.

Approval was granted for 7 of the 13 measures and 6 measures were disapproved for the purposes of Part 150. In addition, 22 measures were included in the noise compatibility plan that requested no action by FAA as they were approved in a previous record of approval, were removed from consideration, or disapproved in a previous record of approval. These measures and FAA's associated determinations are summarized in the attachment to the Record of Approval.

These determinations are set forth in detail in a Record of Approval signed by the Airports Division Manager, Northwest Mountain Region on August 24, 2016. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal are available for review at the FAA office listed above and at the Boise Air Terminal (Gowen Field), 3201 Airport Way, Boise, ID 83705. The Record of Approval also will be available on-line at *http://www.faa.gov/airports/environmental/airport_noise/part_150/states/.*

Issued in Renton, Washington on August 24, 2016.

Randall S. Fiertz,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 2016–21105 Filed 8–31–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

First Meeting of the Drone Advisory Committee (DAC)

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: First Meeting of the Drone Advisory Committee (DAC).

SUMMARY: The FAA is issuing this notice to advise the public of the First Meeting of the Drone Advisory Committee (DAC).

DATES: The meeting will be held September 16, 2016, 9:00 a.m. to 4:00 p.m. EST.

ADDRESSES: The meeting will be held at: The Center for Strategic and International Studies, 1616 Rhode Island Ave NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Al Secen at *asecen@rtca.org* or (202) 330–0647, or the RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for the First Meeting of the Drone Advisory Committee (DAC). The agenda will include the following:

September 16, 2016, 9:00 a.m. to 4:00 p.m. EST

1. Opening of Meeting
2. FAA Opening Remarks
3. Chairman Statement
4. Member Introductions
5. Overview of Federal Advisory Committee Compliance
6. DAC Member Expectations
7. FAA Overview of DAC Objectives
8. Overview of Current UAS Landscape
9. FAA Reauthorization Activities
10. RTCA Overview of Results of Inputs From DAC Members on Issues Priorities
11. Issue Prioritization Exercise
12. Discussion of Outcome of Prioritization
13. Messaging Recap
14. Summary of This Meeting and Actions
15. Suggestions for Next Meeting
16. Meeting Schedule
17. DFO Closing Comments
18. Chairman Closing Comments
19. Member Networking

Although the DAC meeting is open to the public, the meeting location has security protocols that require advanced registration. Please email *bteel@rtca.org* with name, company and country of citizenship to pre-register. Attendance is limited to space availability. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 26, 2016.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17 NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2016–21013 Filed 8–31–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2013–0048]

Notice of Funding Opportunity for Accelerated Innovation Deployment Demonstration

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of funding opportunity.

SUMMARY: This notice announces a funding opportunity and requests grant applications from eligible entities as FHWA continues the Accelerated Innovation Deployment (AID) Demonstration authorized within the Technology and Innovation Deployment Program (TIDP) under the Fixing America's Surface Transportation (FAST) Act. The AID Demonstration provides incentive funding for activities eligible for assistance in any phase of a highway transportation project between project planning and project delivery including: Planning, financing, operation, structures, materials, pavements, environment, and construction that address the TIDP goals. The FHWA expects approximately $10 million to be made available for AID Demonstration in each of Fiscal Years (FY) 2016 through 2020 from amounts authorized under section 6002 of the FAST Act.

DATES: The FHWA will use an open, rolling solicitation. The project must be authorized within 6 months of applying for AID Demonstration funding. Completed applications will be evaluated and award determinations made on a rolling basis until the program ends or funding is no longer available. Applications must be submitted through *http://www.grants.gov*. The *Grants.gov* "Apply" function will open on September 1, 2016.

ADDRESSES: Only applicants who comply with all submission requirements described in this notice and submit applications through *www.grants.gov* will be eligible for award.

FOR FURTHER INFORMATION CONTACT: For questions about the AID Demonstration program discussed herein, contact Mr. Thomas Harman, Director, Center for Accelerating Innovation, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–6377. For legal questions, contact Ms. Seetha Srinivasan, Office of the Chief Counsel, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–4099. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays. A TDD is available for individuals who are deaf or hard of hearing at (202) 366–3993.

Additionally, the notice, answers to questions, requests for clarification, and information about Webinars for further guidance will be posted at: *http://www.fhwa.dot.gov/accelerating/grants.* Applicants are encouraged to contact FHWA directly to receive information about AID Demonstration.

SUPPLEMENTARY INFORMATION: This notice solicits applications for AID Demonstration. Each section of this notice contains information and instructions relevant to the application process for AID Demonstration grants. The applicant should read this notice in its entirety to submit eligible applications.

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register** Web site at *http://www.archives.gov* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

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A. Program Description

On December 4, 2015, President Obama signed into law the FAST Act (Pub. L. 114–94), which continues the TIDP under 23 U.S.C. 503 to implement accelerated innovation deployment. The TIDP relates to all aspects of highway transportation including planning, financing, operation, structures, materials, pavements, environment, and construction.

Section 503(c)(1) specifies the following TIDP goals: (A) Significantly accelerate the adoption of innovative technologies by the surface transportation community; (B) provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction; (C) construct longer-lasting highways through the use of innovative technologies and practices that lead to faster construction of efficient and safe highways and bridges; (D) improve highway efficiency, safety, mobility, reliability, service life, environmental protection, and sustainability; and (E) develop and deploy new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation. The AID Demonstration is one aspect of the multifaceted TIDP approach and provides funding as an incentive for eligible entities to accelerate the implementation and adoption of proven innovation in highway transportation.

B. Federal Award Information

Section 6002 of the FAST Act authorized $67,000,000 for TIDP for FY 2016 and $67,500,000 for FY 2017 through 2020. The Funds are subject to the overall Federal-aid obligation limitation and the obligation limitation associated with these funds is available for 4 fiscal years. The amount of TIDP budget authority available in a given year may be less than the amount authorized for that fiscal year. The TIDP funds are available at an 80 percent Federal share, which require a minimum mandatory 20 percent cost share. The Federal share of a project or activity carried out with funds authorized under section 6002 of the FAST Act shall be 80 percent unless expressly specified otherwise by the Act or otherwise determined by the Secretary. [FAST Act § 6002(c)(1)]

The FHWA expects approximately $10 million to be made available for AID Demonstration in each FY 2016 through 2020 from amounts authorized under section 6002 of the FAST Act. The planned award type is a grant that is allocated to a State department of transportation (State DOT) through project authorization, or for Federal Land Management Agencies and tribes through existing agreements with FHWA Federal Lands Highways Division. The FHWA has funding award goals of up to $9 million available to State DOTs per FY and up to $1 million available to Federal Land Management Agencies and tribal governments per

FY. These funding goals will be reviewed annually and may be adjusted to reflect current priorities and needs.

The amount of each award may be up to the full cost of the innovation, but only to a maximum of $1 million. Awards are limited per FY of up to two per State DOT applicant, with up to one award for a State DOT and up to one award for a subrecipient applying through the State DOT, and limited to one award per applicant for Federal Land Management Agencies and tribal governments, subject to the number of eligible applications and the availability of funds.

Award recipients shall submit a final report to FHWA within 6 months of project completion based on the plan described in Section F (*Federal Award Administration Information*), which documents the process, benefits, and lessons learned including development and/or refinement of guidance, specifications or other tools and methods to support rapid adoption of the innovation(s) as standard practice, as well as level of commitment by recipient to deploy the innovation as standard practice.

C. Eligibility Information

Entities Eligible To Apply for Funding

The AID Demonstration provides incentive funding for eligible entities to accelerate the implementation and adoption by the applicant of proven innovation in highway transportation. Section 502(b)(3) of title 23, U.S.C., authorizes the Secretary to award grants to a wide range of entities. The FHWA will provide AID Demonstration grants to eligible State DOTs, Federal Land Management Agencies, and tribal governments. These entities are the most likely to fulfill the deployment goals of the AID Demonstration program, since they are actively engaged in the deployment of new technologies. Consistent with other FHWA funding provided to tribes, any federally recognized tribe identified on the list of "Indian Entities Recognized and Eligible to Receive Services from the Bureau of Indian Affairs" (published at 77 FR 47868) is eligible to apply for AID Demonstration. Metropolitan planning organizations and local governments may apply through the State DOT as a subrecipient.

Eligible Uses of Funds

The AID Demonstration funds are available for any project activities eligible for assistance under title 23, U.S.C. Eligible activities may involve any phase of a highway transportation project between project planning and project delivery, including planning, financing, operation, structures, materials, pavements, environment, and construction that address the TIDP goals mentioned in Section A (*Program Description*). Projects eligible for funding must pilot and demonstrate for the applicant proven innovative practices or technologies, which the applicant or subrecipient intends to implement and adopt as a significant improvement from the applicant's or the subrecipient's conventional practice.

D. Application and Submission Information

Applications must be submitted through *http://www.grants.gov*. The FHWA will award TIDP AID Demonstration funds to projects based on eligibility outlined in Section C (*Eligibility Information*) and the selection criteria outlined in Section E (*Application Review Information*).

The FHWA will use an open, rolling solicitation, until the program ends or funding is no longer available. Project readiness will be treated as primary selection criteria in FHWA's evaluation process. The project must be authorized within 6 months of applying for AID Demonstration funding. An eligible project must be a pilot deployment for the applicant of a proven innovation previously deployed by others and align with the previously described TIDP goals. The innovation must be proven in real-world highway transportation application with documented benefits (in a form that is publicly available or verifiable), not routinely used by the applicant or the subrecipient, and represent a significant improvement from the applicant's or the subrecipient's conventional practice. The FHWA encourages the use of innovations included in the Every Day Counts (EDC) initiative. Please go to the following link to see examples and benefits of EDC innovations: *https://www.fhwa.dot.gov/innovation/everydaycounts/*.

Initially, to ensure a wide variety of innovations and project types, FHWA will limit awards to three projects per innovation. The FHWA intends to give priority funding consideration to projects using innovations that have not previously received TIDP funding.

In the application, the applicant or the subrecipient must indicate willingness to: (1) Participate in monitoring and assessment activities regarding the effectiveness of the innovation(s) and subsequent technology transfer and information dissemination activities associated with the project; (2) accept FHWA oversight of the project; and (3) conduct a before and after customer satisfaction determination.

Application Process (I. thru IV.)

I. Contents of Applications

The applicant shall include all of the information requested below in their applications. The FHWA may request applicants to supplement the data in the application, but encourages applicants to submit the most relevant and complete information they can provide. The applicant should, to the extent practicable, provide data and evidence of project merits in a form that is publicly available or verifiable.

A complete application will consist of: (1) the Standard Form 424 (SF 424) available from *Grants.gov*, and (2) the narrative attachment to the SF 424 as described below.

II. Standard Form 424, Application for Federal Assistance

Applicants should refer to *http://apply07.grants.gov/apply/forms/sample/SF424_2_1–V2.1pdf.* for instructions on completing the SF 424, which is part of the standard *Grants.gov* submission.

III. Narrative (Attachment to SF 424)

The applicant or subrecipient shall include the supplemental narrative in the attachments section of the SF 424 mandatory form in *Grants.gov* to successfully complete the application process.

The applicant or subrecipient shall respond to the application requirements described below. The supplemental narrative shall be prepared with standard formatting (*e.g.* a single-spaced document, using a standard 12-point font, such as Times New Roman, with 1-inch margins) and should not exceed 5 pages.

An application shall include information needed to verify that the project meets the statutory eligibility criteria as described in Section C (*Eligibility Information*) as well as other information required for FHWA to assess each of the selection criteria specified in Section E (*Application Review Information*). The applicant or subrecipient is required to demonstrate the responsiveness of the proposal to any pertinent selection criteria with the most relevant information that applicants can provide, regardless of whether such information is specifically requested or identified. The applicant or subrecipient shall provide concrete evidence of project milestones, financial capacity, and commitment in order to support project readiness.

For ease of review, the narrative should generally adhere to the following basic outline, and include relevant maps and graphics:

1. *Project Abstract:* Describe work that would be completed under the project, whether the project is a complete project or part of a larger project with prior investment, and the aspect of highway transportation and the TIDP goals that the innovation would address (maximum five sentences). The project abstract should succinctly describe how this specific request for AID Demonstration funding would be included in the project.

2. *Project Description:* Brief description of the project and project objective(s), the innovation and related documented benefits, the performance goals and measures for the innovation, current organizational/institutional experience with the innovation, and the significant improvement to conventional practice expected.

3. *Innovation Performance:* Brief description of how the innovation will be monitored, assessed, and documented to determine if the performance goals and measures are achieved, including a timeline of demonstration, deployment, implementation, and/or adoption activities.

4. *Applicant information and coordination with other entities:* Identification of applicant, and subrecipient if applicable; description of cooperation with other entities; and information regarding any other entities involved in the project.

5. *Funding Request:* Summary of the funding request including the basis for determining the cost of the innovation in the project (note: a project cost estimate may be the best source for providing this data and may be provided as an additional attachment). The applicant should also include the total project cost, identifying Federal and non-Federal shares of project costs.

6. *Eligibility and Selection Criteria:* Brief description of how the project meets the statutory eligibility criteria as described in Section C (*Eligibility Information*) and the selection criteria identified in Section E (*Application Review Information*).

IV. Contact Information

The applicant or subrecipient should include contact information requested as part of the SF–424. The FHWA will use this information to contact applicants and to inform parties of FHWA's decision regarding award determination. Contact information should be provided for a direct employee of the applicant. Contact information for a contractor, agent, or consultant of the lead applicant is insufficient for FHWA's purposes.

Additional Information on Applying Through Grants.gov

Applications for AID Demonstration shall be submitted through *Grants.gov.* To apply for funding through *Grants.gov,* applicants must be properly registered. Complete instructions on how to register and apply can be found at *www.grants.gov.* If interested parties experience difficulties at any point during the registration or application process, they should call the *Grants.gov* Customer Support Hotline at 1–800–518–4726, Monday-Friday from 7:00 a.m. to 9:00 p.m., e.t.

Registering with *Grants.gov* is a one-time process, however, processing delays may occur and it can take up to several weeks for first-time registrants to receive confirmation and a user password. Accordingly, FHWA highly recommends that potential applicants start the registration process as early as possible. In order to apply for AID Demonstration under this notice and to apply for funding through *Grants.gov,* all applicants are required to complete the following:

1. *Acquire a Data Universal Numbering System (DUNS) Number.* A DUNS number is required for *Grants.gov* registration. The Office of Management and Budget requires that all applicants for Federal funds include a DUNS number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity that can be completed by calling 1–866–705–5711 or by applying online at *http://fedgov.dnb.com/webform.*

2. *Acquire or Renew Registration with the System for Award Management (SAM) Database.* All applicants for Federal financial assistance maintain current registrations in the SAM database. An applicant must be registered in the SAM to successfully register in *Grants.gov.* The SAM database is the repository for standard information about Federal financial assistance applicants, recipients, and subrecipients. Entities that have previously submitted applications via *Grants.gov* are already registered with SAM, as it is a requirement for *Grants.gov* registration. Please note, however, that applicants must update or renew their SAM registration at least once per year to maintain an active status, so it is critical to check registration status well in advance of relevant application deadlines. Information about SAM registration procedures can be accessed at: *https://www.sam.gov/portal/public/SAM/.*

3. *Acquire an Authorized Organization Representative (AOR) and a Grants.gov Username and Password.* Applicants will need to complete an AOR profile on *Grants.gov* and create a username and password. The assigned DUNS Number is required to complete this step. For more information about the registration process, go to: *www.grants.gov/applicants/get_registered.jsp.*

4. *Acquire Authorization for the AOR from the E-Business Point of Contact (E-Biz POC).* The E-Biz POC for the applicant must log in to *Grants.gov* to confirm the applicant as an AOR. Please note that there can be more than one AOR for each applicant.

5. *Search for the Funding Opportunity on Grants.gov.* Applicants can use the Catalog of Federal Domestic Assistance number for this solicitation, which is 20.200, titled Technology and Innovation Development Program, when searching for the AID Demonstration opportunity on *Grants.gov.*

6. *Submit an Application Addressing All of the Requirements Outlined in this Notice of Funding Opportunity.* Within 24 to 48 hours after submitting an electronic application, applicants should receive an email validation message from *Grants.gov.* The validation message will specify whether the application was received and validated or rejected, with an explanation.

Note: When uploading attachments, applicants should use generally accepted formats such as .pdf, .doc, and .xls. While applicants may imbed picture files such as .jpg, .gif, .bmp, in your files, they should not save and submit the attachment in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

E. Application Review Information

The FHWA will evaluate AID Demonstration applications in accordance with the evaluation process described below.

The FHWA will establish an evaluation team of technical and professional staff with relevant experience and/or expertise to review each application received by FHWA through *Grants.gov.* The evaluation team will be responsible for reviewing, evaluating, and rating the applications as well as making funding recommendations to FHWA senior leadership.

After reviewing the application, the evaluation team may contact the applicant to discuss the application and confirm understanding of the requirements for participation in AID Demonstration. Based on the information collected, the evaluation team will prepare a summary assessment rating the application along with the team's recommendation. The summary assessment and recommendation will be presented to FHWA senior leadership to make a final determination on the approval of the award.

I. Selection Criteria

All applications will be evaluated on a rolling basis and be assigned a rating of "Qualified" or "Not Qualified."

The ratings are as follows:

1. *Qualified*—a project must meet all 8 of the following criteria:

i. Project ready to authorize within 6 months of applying for AID Demonstration funding, including such information as: Evidence of project milestones, financial capacity, and commitment in order to support project readiness.

ii. project pilots and demonstrates an innovation with a technology readiness level of 7 or higher as defined in Table 1;

iii. project aligns with TIDP goals to accelerate the implementation and delivery of new innovations and technologies that result from highway research and development to benefit all aspects of highway transportation.;

iv. innovation is proven in real-world application with documented benefits, and not routinely used by the applicant or the subrecipient;

v. application describes the innovation's magnitude and scope of impact on the applicant's or the subrecipient's conventional practice;

vi. cost estimate is included that directly supports the requested funding amount;

vii. information provided on performance goals and measures for respective innovation demonstration and deployment activities;

viii. application indicates the applicant's or subrecipient's willingness to:

(1) Participate in monitoring and assessment activities regarding the effectiveness of the innovation(s) and subsequent technology transfer and information dissemination activities associated with the project;

(2) accept FHWA oversight of the project;

(3) conduct before and after customer satisfaction determinations; and

(4) commit to deployment of the innovation as standard practice in the future, if the deployment is successful.

TABLE 1—TECHNOLOGY READINESS LEVELS (TRL)

Phase	TRL	Description	Examples
Basic Research	1	Basic principles and research	Piezo electric energy harvesting in the roadway. Agent-based modeling and simulations.
	2	Application formulated.	
	3	Proof of concept.	
Applied Research	4	Components validated in laboratory environment.	Cooperative adaptive cruise control. Fiber-reinforced concrete columns.
	5	Integrated components demonstrated in a laboratory environment.	
Development	6	Prototype demonstrated in relevant environment.	Nondestructive testing for concrete bridge decks, Strategic Highway Research Program (SHRP) R06A. Software tools for sharing and integrating Geographic Information System (GIS) data.
	7	Prototype demonstrated in operational environment.	
	8	Technology proven in operational environment.	
Implementation	9	Technology refined and market ready.	FHWA Every Day Counts (EDC) technologies—*e.g.* Warm Mix Asphalt, Safety Edge, Design-Build, Programmatic Agreements, Accelerated Bridge Construction, Prefabricated Bridge Elements & Systems: *https://www.fhwa.dot.gov/innovation/everydaycounts/.*

2. *Not Qualified*—If a project meets any one of the following criteria, then it is not qualified for funding:

i. Project does not meet the eligibility requirements;

ii. application fails to address one or more of the application requirements;

iii. applicant received AID Demonstration funding within the current fiscal year; or

iv. three AID Demonstration funding awards were already made for the innovation.

F. Federal Award Administration Information

Each applicant selected for AID Demonstration funding shall work with FHWA on the development and implementation of a plan to collect information and report on the project's performance with respect to the relevant outcomes that are expected to be achieved through the innovation in the project. Each recipient or subrecipient of AID Demonstration funding shall report on specified performance indicators for its project. Performance indicators will be identified for each project, and will consider the individual project's stated goals as well as resource constraints of the recipient or subrecipient. Performance indicators may include formal goals or targets, will include baseline measures as well as post-project outputs, and will inform the AID Demonstration in working toward best practices, programmatic performance measures, and future decisionmaking guidelines. The recipient or subrecipient shall submit a final report to FHWA within 6 months of project completion which documents the process, benefits, and lessons learned including development and/or refinement of guidance, specifications, or other tools and methods to support rapid adoption of the innovation(s) as standard practice.

G. Federal Awarding Agency Contacts

For further information concerning this final notice please contact: Mr. Thomas Harman, Director, Federal Highway Administration, Office of Innovative Program Delivery, Center for Accelerating Innovation, 1200 New Jersey Avenue SE., E84–547, Washington, DC 20590, Telephone: (202) 366–6377, or email: *tom.harman@dot.gov.*

For legal questions, please contact: Ms. Seetha Srinivasan, Attorney-Advisor, Federal Highway Administration, Office of the Chief Counsel, 1200 New Jersey Avenue SE., E82–328, Washington, DC 20590, Telephone: (202) 366–4099, or email: *seetha.srinivasan@dot.gov.*

Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays. A TDD is available for individuals who are deaf or hard of hearing at (202) 366–3993.

In addition, FHWA may post answers to questions and requests for clarifications on FHWA's Web site at: *http://www.fhwa.dot.gov/accelerating/grants.* Applicants and subrecipients are encouraged to contact FHWA directly to receive information about AID Demonstration.

Authority: Section 52003 of Pub. L. 112–141; Section 6003 of Pub. L. 114–94; 23 U.S.C. 503.

Issued on: August 24, 2016.

Gregory G. Nadeau,

Administrator, Federal Highway Administration.

[FR Doc. 2016–21063 Filed 8–31–16; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for the use of non-domestic iron and steel components in thruster brakes and bearings assemblies for restoration of electrical and mechanical control systems for 12 moveable bridges in the State of New York.

DATES: The effective date of the waiver is September 2, 2016.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *gerald.yakowenko@dot.gov.* For legal questions, please contact Mr. William Winne, FHWA Office of the Chief Counsel, 202–366–1397, or via email at *William.Winne@dot.gov.* Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for use of non-domestic iron and steel components in thruster brakes and bearings assemblies for restoration of electrical and mechanical controls systems for 12 moveable bridges in the State of New York.

In accordance with Division K, section 122 of the "Consolidated and Further Continuing Appropriations Act, 2015" (Pub. L. 113–235), FHWA published a notice of intent to issue a waiver on its Web site; *http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=130* on July 12th. The FHWA received no comments in response to the publication. Based on all the information available to the agency, FHWA concludes that there are no domestic manufacturers of iron and steel components compatible with thruster brakes and bearings assemblies for restoration of electrical and mechanical controls systems for 12 moveable bridges in the State of New York.

In accordance with the provisions of section 117 of the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to FHWA's Web site via the link provided to the waiver page noted above.

Authority: 23 U.S.C. 313; Public Law 110–161, 23 CFR 635.410

Issued on: August 25, 2016.

Gregory G. Nadeau,

Administrator, Federal Highway Administration.

[FR Doc. 2016–21073 Filed 8–31–16; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before October 31, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or at *Elaine.H.Christophe@irs.gov.*

Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, or copies of the information collection and instructions, or copies of any comments received, contact Elaine Christophe, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Elaine.H.Christophe@irs.gov.*

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and the Internal Revenue Service, as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to take this opportunity to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*).

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Currently, the IRS is seeking comments concerning the following forms, and reporting and record-keeping requirements:

1. *Title:* Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.

OMB Number: 1545–0004.

Form Number: SS–8, SS–8(PR).

Abstract: Form SS–8 and SS–8(PR) are used by employers and workers to furnish information to IRS in order to obtain a determination as to whether a worker is an employee for purposes of Federal employment taxes and income tax withholding. IRS uses the information on the forms to make the determination.

Current Actions: There are no changes being made to the Form SS–8 and SS–8(PR) at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, Federal government, farms, and state, local or tribal governments.

Estimated Number of Respondents: 4,705.

Estimated Time per Respondent: 22 hours, 17 minutes.

Estimated Total Annual Burden Hours: 148,621.

2. *Title:* Election To Have a Tax Year Other Than a Required Tax Year.

OMB Number: 1545–1036.

Form Number: 8716.

Abstract: Form 8716 is filed by partnerships S corporations, S corporations, and personal service corporations under Internal Revenue Code section 444(a) to elect to retain or to adopt a tax year that is not a required tax year. The form provides IRS with information to determine that the section 444(a) election is properly made and identifies the tax year to be retained, changed, or adopted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business, or other for-profit organizations and farms.

Estimated Number of Respondents: 40,000.

Estimated Time per Respondent: 3 hrs, 26 min.

Estimated Total Annual Reporting Burden Hours: 204,400.

3. *Title:* Consent to Disclosure of Return Information.

OMB Number: 1545–1856.

Form Number: 13362.

Abstract: The Consent Form is provided to external applicants to allow the Service the ability to conduct tax checks to determine if an applicant is suitable for employment once they are determined qualified and within reach to receive an employment offer.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Federal Government.

Estimated Number of Respondents: 46,000.

Estimated Number of Respondents: 10 minutes.

Estimated Total Annual Burden Hours: 7,664.

4. *Title:* HCTC Registration for Medicare Family Members.

OMB Number: 1545–2162.

Form Number: 14117.

Abstract: This form will be used by the family members of HCTC eligible individuals under circumstances where the original candidate has died or become divorced from the family member. This form allows family members to begin the HCTC registration process by verifying the family member's eligibility.

Current Actions: There are no changes to the previously approved burden of this existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business and for-profit.

Estimated Number of Respondents: 2,400.

Estimated Time per Respondent: 30 min.

Estimated Total Annual Burden Hours: 600.

5. *Title:* Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.

OMB Number: 1545–0181.

Form Number: 4768.

Abstract: Form 4768 is used to request an extension of time to file an estate (and generation-skipping) tax return and/or to pay the estate (and generation-skipping) taxes and to explain why the extension should be granted. IRS uses the information to decide whether the extension should be granted.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 18,500.

Estimated Time per Respondent: 1 hour 52 minutes.

Estimated Total Annual Burden Hours: 30,710.

6. *Title:* Substantiation of Charitable Contributions.

OMB Number: 1545–0754.

Regulation: TD 8002.

Abstract: This regulation provides guidance relating to substantiation requirements for charitable contributions. Section 1.170A–13 of the regulation requires donors to maintain receipts and other written records to substantiate deductions for charitable contributions.

Current Actions: There is no change to this existing regulation. Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 26,000,000.

Estimated Time per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 2,158,000.

7. *Title:* Registration Requirements With Respect to Certain Debt Obligations; Application of Repeal of 30 Percent Withholding by the Tax Reform Act of 1984.

OMB Number: 1545–1132.

Regulation: INTL–536–89.

Abstract: Sections 165(j) and 1287(a) of the Internal Revenue Code provide that persons holding registration-required obligations in bearer form are subject to certain penalties. These sections also provide that certain persons may be exempted from these penalties if they comply with reporting requirements with respect to ownership, transfers, and payments on the obligations. The reporting and recordkeeping requirements in this regulation are necessary to ensure that persons holding registration-required obligations in bearer form properly report interest and gain on disposition of the obligations.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents/Recordkeepers: 5000.

Estimated Time per Respondent/Recordkeeper: 10 minutes.

Estimated Total Annual Reporting/Recordkeeping Hours: 850.

8. *Title:* Tip Reporting Alternative Commitment Agreement used in the Cosmetology and Barber Industry.

OMB Number: 1545–1529.

Abstract: Announcement 2000–21, 2000–19 I.R.B. 983, contain information required by the Internal Revenue Service in its tax compliance efforts to assist employers and their employees in understanding and complying with Internal Revenue Code section 6053(a), which requires employees to report all their tips monthly to their employers.

Current Actions: There is no change to this existing information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents and/or Recordkeeping: 4,600.

Estimated Average Time per Respondent/Recordkeeper: 9 hr., 22 min.

Estimated Total Annual Reporting and/or Recordkeeping Burden Hours: 43,073.

9. *Title:* Credit for Increasing Research Activities.

OMB Number: 1545–1625.

Regulation: REG–105170–97 (TD 8930) and REG–112991–01 (TD 9104).

Abstract: These final regulations relate to the computation of the credit under section 41(c) and the definition of qualified research under section 41(d). These regulations are intended to provide (1) guidance concerning the requirements necessary to qualify for the credit for increasing research activities, (2) guidance in computing the credit for increasing research activities, and (3) rules for electing and revoking the election of the alternative incremental credit.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business, or other for-profit organizations and farms.

Estimated Number of Respondents: 5.

Estimated Time per Respondent: 50 hours.

Estimated Total Annual Reporting Burden hours: 250.

10. *Title:* Taxable REIT Subsidiary Election.

OMB Number: 1545–1721.

Form Number: 8875.

Abstract: A corporation and a REIT use Form 8875 to jointly elect to have the corporation treated as a taxable REIT subsidiary as provided in section 856(l).

Current Actions: There are no changes being made to the form at this time.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 7 hr., 40 min.

Estimated Total Annual Burden Hours: 9,980.

11. *Title:* Advanced Insurance Commissions.

OMB Number: 1545–1736.

Revenue Procedure Number: Revenue Procedure 2001–24.

Abstract: A taxpayer that wants to obtain automatic consent to change its method of accounting for cash advances on commissions paid to its agents must agree to the specified terms and conditions under the revenue procedure. This agreement is ratified by attaching the required statement to the federal income tax return for the year of change.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 5,270.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 1,318.

12. *Title:* Health Insurance Costs of Eligible Individuals.

OMB Number: 1545–1875.

Procedure: Rev. Proc. 2004–12.

Abstract: Revenue Procedure 2004–12 informs states how to elect a health program to be qualified health insurance for purposes of the health coverage tax credit (HCTC) under section 35 of the Internal Revenue Code. The collection of information is voluntary. However, if a state does not make an election, eligible residents of the state may be impeded in their efforts to claim the HCTC.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: States, Local or Tribal Government.

Estimated Number of Respondents: 51.

Estimated Average Time per Respondent: 30 minutes.

Estimate Total Annual Burden Hours: 26.

13. *Title:* Information Return for Tax Credit Bonds.

OMB Number: 1545–2160.

Notice Number: Form 8038–TC.

Abstract: Form 8038–TC will be used by issuers of qualified tax-exempt credit bonds, including tax credit bonds enacted under American Recovery and Reinvestment Act of 2009, to capture information required by IRC section 149(e) using a schedule approach. For applicable types of bond issues, filers will this form instead of Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Not for profit institutions.

Estimated Number of Respondents: 540.

Estimated Average Time per Respondent: 28 hrs., 44 min.

Estimated Total Annual Burden Hours: 20,294 hrs.

14. *Title:* IRS Customer Satisfaction Surveys.

OMB Number: 1545–2250.

Form Number: N/A.

Abstract: We are requesting a three-year approval to conduct specific customer satisfaction and opinion surveys, which will allow the Agency to continue to use a data-driven approach to understanding customer satisfaction at the Internal Revenue Service (IRS). Collecting, analyzing, and using customer opinion data is a vital component of IRS's Balanced Measures Approach, as mandated by Internal Revenue Service Reform and Restructuring Act of 1998 and Executive Order 12862.

Current Actions: There are no changes being made at this time.

Type of Review: Extension of currently approved collection.

Affected Public: The information collected from taxpayers, practitioners, and a few small entities, will help ensure that users of IRS programs and services have an effective, efficient, and satisfying experience. In regard to online services, this feedback will provide insights into customer preferences for online information and services on *IRS.gov* that will meet their needs to resolve inquiries and their accounts on their own. This collection of feedback will contribute directly to the improvement of content and services provided online.

Estimated Number of Respondents: 568,392.

Estimated Time per Respondent: 10 min.

Estimated Total Annual Burden Hours: 34,945.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Approved: August 19, 2016.

Tuawana Pinkston,

IRS Supervisory Tax Analyst

[FR Doc. 2016–21094 Filed 8–31–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8282 and 8283

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8282, Donee Information Return (Sale, Exchange, or Other Disposition of Donated Property) and Form 8283, Noncash Charitable Contributions.

DATES: Written comments should be received on or before October 31, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Donee Information Return (Sale, Exchange, or Other Disposition of Donated Property) (Form 8282) and Noncash Charitable Contributions (Form 8283).

OMB Number: 1545–0908.

Form Numbers: Form 8282 and 8283.

Abstract: Internal Revenue Code section 170(a)(1) and regulation section 1.170A–13(c) require donors of property valued over $5,000 to file certain information with their tax return in order to receive the charitable contribution deduction. Form 8283 is used to report the required information. Code section 6050L requires donee organizations to file an information return with the IRS if they dispose of the property received within two years. Form 8282 is used for this purpose.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or household and Business or other for-profit organizations.

Form 8282

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 9 hours, 24 minutes.

Estimated Total Annual Burden Hours: 9,400.

Form 8283

Estimated Number of Respondents: 3,144,666.

Estimated Time per Respondent: 29 minutes.

Estimated Total Annual Burden Hours: 7,805,692.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 25, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–21093 Filed 8–31–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions in 2016 of a currently approved information collection that is proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning the revision of the Annual Report of U.S. Ownership of Foreign Securities, including Selected Money Market Instruments. The next such collection is a benchmark survey to be conducted as of December 31, 2016.

DATES: Written comments should be received on or before October 31, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422 MT, 1500 Pennsylvania Avenue NW., Washington, DC 20220. In view of possible delays in mail delivery, you may also wish to send a copy to Mr. Wolkow by email (*comments2TIC@do.treas.gov*) or FAX (202–622–2009). Mr. Wolkow can also be reached by telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed form and instructions are available at Part II of the Treasury International Capital (TIC) Forms Web page "Forms SHL/SHLA & SHC/SHCA", at: *https://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms-sh.aspx#shc.* The proposed forms and instructions are unchanged from the previous survey that was conducted as of December 31, 2015 (SHCA(2015)), except that (a) the "who must report" section of the instructions is designed for a benchmark survey, and (b) the "Current Actions" below are included in the instructions. Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Title: Treasury International Capital (TIC) Form SHC/SHCA "U.S. Ownership of Foreign Securities, including Selected Money Market Instruments."

OMB Control Number: 1505–0146.

Abstract: Form SHC/SHCA is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 3101 *et seq.;* E.O. 11961; 31 CFR 129) and is used to conduct annual surveys of U.S. residents' ownership of foreign securities for portfolio investment purposes. These data are used by the U.S. Government in the formulation of international financial and monetary policies, and for the computation of the U.S. balance of payments accounts and of the U.S. international investment position. These data are also used to provide information to the public and to meet international reporting commitments. The SHC/SHCA survey is part of an internationally coordinated effort under the auspices of the International Monetary Fund to improve data on securities worldwide. Most of the major industrial and financial countries conduct similar surveys.

The data collection includes large benchmark surveys conducted every five years, and smaller annual surveys conducted in the non-benchmark years. The data collected under an annual survey are used in conjunction with the results of the preceding benchmark survey to make economy-wide estimates for that non-benchmark year. Currently, the determination of who must report in the annual surveys is based primarily on the data submitted during the preceding benchmark survey. The data requested in the annual survey will generally be the same as requested in the preceding benchmark report. Form SHC is used for the benchmark survey of all significant U.S.-resident custodians and end-investors regarding U.S. ownership of foreign securities. In non-benchmark years Form SHCA is used for the annual surveys of primarily the very largest U.S.-resident custodians and end-investors.

Current Actions: No changes in the forms will be made from the previous survey that was conducted as of December 31, 2015. The proposed changes in the instructions are: (1) An increase in the exemption level (the threshold for reporting) for filing schedules 2 and 3 under this mandatory survey will be increased from $100 million to $200 million; and (2) some clarifications of existing instructions may be made in the instructions. The changes will reduce the total burden on data filers.

Type of Review: Revision of currently approved data collection.

Affected Public: Business/Financial Institutions.

Form: TIC SHC/SHCA, Schedules 1, 2 and 3 (1505–0146).

Estimated Number of Respondents: An annual average (over five years) of 306, but this varies widely from about 785 in benchmark years (once every five years) to about 190 in other years (four out of every five years).

Estimated Average Time per Respondent: An annual average (over five years) of about 174 hours, but this will vary widely from respondent to respondent. (a) In the year of a benchmark survey, which is conducted once every five years, it is estimated that exempt respondents will require an average of 17 hours; custodians of securities providing security-by-security information will require an average of 361 hours, but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require an average of 121 hours; and end-investors and custodians employing U.S. custodians will require an average of 41 hours. (b) In a non-benchmark year, which occurs four years out of every five years: Custodians of securities providing security-by-security information will require an average of 546 hours (because only the largest U.S.-resident custodians will report), but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require an average of 146 hours; and reporters entrusting their foreign securities to U.S. custodians will require an average of 49 hours. The exemption level, which applies only in benchmark years when filing schedules 2 or 3 or both, for custodians and for end-investors is the holding of less than $200 million in reportable foreign securities owned by U.S. residents. For schedule 2, end-investors should exclude securities that are held with their unaffiliated U.S.-resident custodians.

Estimated Total Annual Burden Hours: An annual average (over five years) of 53,260 hours.

Frequency of Response: Annual.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether the Survey is necessary for the proper performance of the functions of the Office of International Affairs within the Department of the Treasury, including whether the information collected will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data requested; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide the information requested.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 2016–21064 Filed 8–31–16; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Annual Pay Ranges for Physicians and Dentists of the Veterans Health Administration (VHA)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by the "Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004" (Pub. L. 108–445, dated December 3, 2004) the Department of

Veterans Affairs (VA) is hereby giving notice of annual pay ranges for Veterans Health Administration (VHA) physicians and dentists as prescribed by the Secretary for Department-wide applicability. These annual pay ranges are intended to enhance the flexibility of the Department to recruit, develop, and retain the most highly qualified providers to serve our Nation's Veterans and maintain a standard of excellence in the VA health care system.

DATES: *Effective Dates:* Annual pay ranges are effective November 13, 2016.

FOR FURTHER INFORMATION CONTACT: Debra Doty, HR Specialist/Title 38 Program Manager, Compensation and Classification Service (055), Office of Human Resources Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (757) 291–6514. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 7431(e)(1)(A), not less often than once every two years, the Secretary must prescribe for Department-wide applicability the minimum and maximum amounts of annual pay that may be paid to VHA physicians and dentists. Further, 38 U.S.C. 7431(e)(1)(B) allows the Secretary to prescribe separate minimum and maximum amounts of pay for a specialty or assignment. In construction of the annual pay ranges, 38 U.S.C. 7431(c)(4)(A) requires the consultation of two or more national surveys of pay for physicians and dentists, as applicable, whether prepared by private, public, or quasi-public entities in order to make a general assessment of the range of pays payable to physicians and dentists. Lastly, 38 U.S.C. 7431(e)(1)(C) states amounts prescribed under paragraph 7431(e) shall be published in the **Federal Register**, and shall not take effect until at least 60 days after date of publication.

Background

The "Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004" (Pub. L. 108–445) was signed by the President on December 3, 2004. The major provisions of the law established a new pay system for Veterans Health Administration (VHA) physicians and dentists consisting of base pay, market pay, and performance pay. While the base pay component is set by statute, market pay is intended to reflect the recruitment and retention needs for the specialty or assignment of a particular physician or dentist at a facility. Further, performance pay is intended to recognize the achievement of specific goals and performance objectives prescribed annually. These three components create a system of pay that is driven by both market indicators and employee performance, while recognizing employee tenure in VHA.

Discussion

VA identified and utilized salary survey data sources which most closely represent VA comparability in the areas of practice setting, employment environment, and hospital/health care system. The Association of American Medical Colleges (AAMC), Hospital and Healthcare Compensation Service (HHCS), Sullivan, Cotter, and Associates (S&C), Medical Group Management Association (MGMA), and the Survey of Dental Practice published by the American Dental Association (ADA) were collectively utilized as benchmarks from which to prescribe annual pay ranges for physicians and dentists across the scope of assignments/specialties within the Department. While aggregating the data, a preponderance of weight was given to those surveys which most directly resembled the environment of the Department.

In constructing annual pay ranges to accommodate the more than 40 physician and dentist specialties that currently exist in the VA system, VA continued the practice of grouping specialties into consolidated pay ranges. This allows VA to use multiple sources that yield a high number of physician salary data which helps to minimize disparities and aberrations that may surface from data involving smaller numbers of physicians and dentists for comparison and from sample change from year to year. Thus, by aggregating multiple survey sources into like groupings, greater confidence exists that the average compensation reported is truly representative. In addition, aggregation of data provides for a large enough sample size and provides pay ranges with maximum flexibility for pay setting for the more than 25,000 VHA physicians and dentists.

In developing the annual pay ranges, a few distinctive principles were factored into the compensation analysis of the data. The first principle is to ensure that both the minimum and maximum salary is at a level that accommodates special employment situations, from fellowships and medical research career development awards to Nobel Laureates, high-cost areas, and internationally renowned clinicians. The second principle is to provide ranges large enough to accommodate career progression, geographic differences, sub-specialization, and other special factors.

Forty-one clinical specialties were reviewed against available, relevant private sector data. The specialties are grouped into four clinical pay ranges that reflect comparable complexity in salary, recruitment, and retention considerations. Two additional pay ranges apply to VHA Chiefs of Staff and physicians and dentists in executive level administrative assignments at the facility, network, or headquarters level.

PAY TABLE 1—CLINICAL SPECIALTY

Tier level	Minimum	Maximum
TIER 1	$100,957	$225,000
TIER 2	110,000	234,000
TIER 3	120,000	262,000

PAY TABLE 1—COVERED CLINICAL SPECIALTIES

Endocrinology
Endodontics
General Practice—Dentistry
Geriatrics
Infectious Diseases
Internal Medicine/Primary Care/Family Practice
Palliative Care
Periodontics
Preventive Medicine
Prosthodontics
Rheumatology
All other specialties or assignments that do not require a specific specialty

PAY TABLE 2—CLINICAL SPECIALTY

Tier level	Minimum	Maximum
TIER 1	$100,957	$264,000
TIER 2	115,000	292,000
TIER 3	130,000	320,000

PAY TABLE 2—COVERED CLINICAL SPECIALTIES

Allergy and Immunology
Hospitalist
Nephrology
Neurology
Pathology
PM&R/SCI
Psychiatry

PAY TABLE 3—CLINICAL SPECIALTY

Tier level	Minimum	Maximum
TIER 1	$100,957	$348,000
TIER 2	120,000	365,000
TIER 3	135,000	385,000

PAY TABLE 3—COVERED CLINICAL SPECIALTIES

Anesthesiology (Pain Management)

PAY TABLE 3—COVERED CLINICAL SPECIALTIES—Continued

Cardiology (Non-Invasive)
Emergency Medicine
Gynecology
Hematology-Oncology
Nuclear Medicine
Ophthalmology
Oral Surgery
Pulmonary

PAY TABLE 4—CLINICAL SPECIALTY

Tier level	Minimum	Maximum
TIER 1	$100,957	$400,000
TIER 2	125,000	400,000

PAY TABLE 4—COVERED CLINICAL SPECIALTIES

Anesthesiology
Cardiology (Invasive/Non-Interventional)
Cardio-Thoracic Surgery
Critical Care
Dermatology
Dermatology (MOHS)
Gastroenterology
General Surgery
Interventional Cardiology
Interventional Radiology
Neurosurgery
Orthopedic Surgery
Otolaryngology
Plastic Surgery
Radiology (Diagnostic)
Radiation Oncology
Urology
Vascular Surgery

PAY TABLE 5—CHIEF OF STAFF

Tier level	Minimum	Maximum
TIER 1	$150,000	$309,000
TIER 2	145,000	289,000
TIER 3	140,000	270,000

PAY TABLE 5—COVERED ASSIGNMENTS

VHA Chiefs of Staff
Deputy Chiefs of Staff (Complexity Level 1a and 1b facilities only)

PAY TABLE 6—EXECUTIVE ASSIGNMENTS

Tier level	Minimum	Maximum
TIER 1	$145,000	$265,000
TIER 2	145,000	245,000
TIER 3	130,000	235,000

PAY TABLE 6—COVERED EXECUTIVE ASSIGNMENTS

Principal Deputy, Deputy Under Secretary for Health, Chief Officer, Network Director, Medical Center Director, Network Chief Officer, Executive Director, Assistant Under Secretary for Health, VA Central Office Chief Consultant, National Director, National Program Manager and other VA Central Office Physician/Dentist.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document August 22, 2016, for publication.

Dated: August 22, 2016.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2016–20910 Filed 8–31–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0011]

Proposed Information Collection (Application for Reinstatement—Insurance Lapsed More Than 6 Months (29–352) and Application for Reinstatement—Non Medical Comparative Health Statement (29–353)) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 31, 2016.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administrations (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to "OMB Control No. 2900–0011" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506 (c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Reinstatement—Insurance Lapsed More Than 6 Months (VA Form 29–352) and Application for Reinstatement—Non Medical Comparative Health Statement (VA Form 29–353).

OMB Control Number: 2900–0011.

Type of Review: Extension of a currently approved collection.

Abstract: These forms are used by veterans who are requesting a reinstatement of their lapsed life insurance policies.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,125 hours.

Estimated Average Burden per Respondent: 22.5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 3000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Program Specialist, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–21037 Filed 8–31–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0539]

Proposed Information Collection (Application for Supplemental Service Disabled Veterans Insurance, VA Forms 29–0188 and 29–0189) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 31, 2016.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administrations (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to "OMB Control No. 2900–0539" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506 (c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Supplemental Service Disabled Veterans Insurance VA Forms 29–0188 and 29–0189.

OMB Control Number: 2900–0539.

Type of Review: Extension of a currently approved collection.

Abstract: VA Forms 29–0188 and 29–0189 are used by eligible insureds to apply for Supplemental Service Disabled Veterans Insurance. Collection of the requested information is required to implement the provisions of Public Law 102–568 which expanded the insurance coverage available under 38 U.S.C. Section 1922.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,333 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 10,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Program Specialist, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–21036 Filed 8–31–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection (Notice of Disagreement (NOD) (Pension, Dependency and Indemnity Compensation (DIC), Burial and Accrued), VA Form 21P–0970) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 3, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to "OMB Control No. 2900–NEW, VA Form 21P–0970" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to "OMB Control No. 2900–NEW, VA Form 21P–0970."

SUPPLEMENTARY INFORMATION:

Title: Notice of Disagreement (NOD) (Pension, Dependency and Indemnity Compensation (DIC), Burial and Accrued).

OMB Control Number: 2900–NEW (To be assigned by OMB upon approval of the Information Collection Request).

Type of Review: New Collection (Request for a new OMB Control Number).

Abstract: The Department of Veterans Affairs (VA), through its Veterans Benefits Administration (VBA), administers an integrated program of benefits and services, established by law, for Veterans, service personnel, and their dependents and/or beneficiaries. Information is requested by this form under the authority of 38 U.S.C. 7105. The statute is codified at 38 CFR 20.201, 20.302, and 20.501.

The statute and regulations describe the process by which a claimant can appeal the decisions made by VBA on a claim for benefits.

VA Form 21P–0970 will be used by the claimant to initiate an appeal by indicating disagreement with a decision issued by a VA Regional Office (RO) specifically related to a claim for VA pension benefits, dependency and indemnity compensation (DIC) benefits, burial benefits, and accrued benefits. VA Form 21P–0970 will be the claimant's first step in the appeal process. The respondent may or may not continue with an appeal to the Board of Veterans Appeals (BVA). If the claimant opts to continue to BVA for an appeal, this form will be included in the claim folder as evidence.

VA will provide VA Form 21P–0970 to the claimant with the notification letter of the decision in paper form or via hyperlink to VA's Web site. The use of VA Form 21P–0970 will be mandatory when claimants initiate an appeal of a decision on a pension, DIC, burial, or accrued claims for benefits.

Currently, VBA does not have a mandatory form which would enable the claimant to initiate an appeal of a decision made regarding entitlement to pension, DIC, burial, or accrued benefits. As a result, claimants may provide their notice of disagreement in any format. The variety of submissions hampers efforts to identify, and process timely, the claimant's appeal. With the implementation of this collection, the submissions will be standardized, increasing efficiency.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 81 FR 12033 on May 23, 2016.

Affected Public: Individuals or households.

Estimated Annual Burden: 6,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 12,000 respondents.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Program Specialist, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–21035 Filed 8–31–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0784]

Proposed Information Collection (NCA Pre-Need Determination of Eligibility for Burial) Activity: Comment Request

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The National Cemetery Administration (NCA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each revised collection, and allow 30 days for public comment in response to the notice.

PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument. This notice solicits comments on information needed to determine a claimant's eligibility in advance of need for burial at a National Cemetery.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 3, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov*. Please refer to "OMB Control No. 2900–0784" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov*. Please refer to "OMB Control No. 2900–0784."

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, NCA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of NCA's functions, including whether the information will have practical utility; (2) the accuracy of NCA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Pre-Need Determination of Eligibility for Burial in a VA National Cemetery, VA Form 40–10007.

OMB Control Number: 2900–0784.

Type of Review: Revision of an approved collection.

Abstract: VA Form 40–10007 will be used to collect information from Veterans and their family members seeking a determination of eligibility for burial in a VA National Cemetery in advance of need. Such decisions are consistent with VA's plan to streamline access to VA benefits and to assist Veterans' families in better planning for their end of life matters. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 81FR 29330 on May 11, 2016.

Affected Public: Individuals or households.

Estimated Annual Burden: 12,000 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 36,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Program Specialist, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–21066 Filed 8–31–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0161]

Agency Information Collection (Medical Expense Report, VA Form 21P–8416) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 3, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@ omb.eop.gov.* Please refer to "OMB Control No. 2900–0161" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to "OMB Control No. 2900–0161."

SUPPLEMENTARY INFORMATION:

Title: Medical Expense Report.

OMB Control Number: 2900–0161.

Type of Review: Revision of a Currently Approved Collection.

Abstract: The Department of Veterans Affairs (VA), through its Veterans Benefits Administration (VBA), administers an integrated program of benefits and services established by law for veterans, service personnel, and their dependents and/or beneficiaries. Information is requested on VA Form 21P–8416 under the authority of 38 U.S.C. 1503(a)(8) regarding exceptions to countable income for needs-based benefits, specifically an amount equal to amounts paid by a claimant or beneficiary for unreimbursed medical expenses.

VA Form 21P–8416 is used by claimants and beneficiaries to report unreimbursed medical expenses for the purpose of reducing their countable income associated with needs-based benefit programs such as VA Pension and Parents' Dependency and Indemnity Compensation (DIC). Unreimbursed medical expenses are deducted from otherwise countable income to determine eligibility for income-based benefits and the rate payable.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day period soliciting comments on this collection of information was published at 81 FR 32387 on May 23, 2016.

Affected Public: Individuals or households.

Estimated Annual Burden: 48,200 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 96,400 respondents.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Program Specialist, Office of Privacy & Records Management, Department of Veterans Affairs.

[FR Doc. 2016–21032 Filed 8–31–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0797]

Agency Information Collection (Principles of Excellence Complaint System Intake) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 3, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to oira *submission@ omb.eop.gov.* Please refer to "OMB Control No. 2900–0797" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *Cynthia.Harvey-Pryor@va.gov* . Please refer to "OMB Control No. 2900–0797."

SUPPLEMENTARY INFORMATION:

Title: Principles of Excellence Complaint System.

OMB Control Number: 2900–0797.

Type of Review: Extension of an approved collection.

Abstract: Executive Order 13607, Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members, requires the establishment of a centralized complaint system for students receiving Federal military and veteran educational benefits. The purpose of the complaint system is to provide a standardized method to submit a complaint against an educational institution alleging fraudulent and unduly aggressive recruiting techniques, misrepresentation, payment of incentive compensation, failure to meet state authorization requirements, or failure to adhere to the Principles of Excellence as outlined in the Executive Order.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 81 FR12031 on May 23, 2016.

Affected Public: Individuals or households.

Estimated Annual Burden: 375 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,500 respondents.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Program Specialist, Office of Privacy & Records Management, Department of Veterans Affairs.

[FR Doc. 2016–21034 Filed 8–31–16; 8:45 am]

BILLING CODE 8320–01–P

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Part II

Securities and Exchange Commission

17 CFR Parts 275 and 279
Form ADV and Investment Advisers Act Rules; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 275 and 279

[Release No. IA–4509; File No. S7–09–15]

RIN 3235–AL75

Form ADV and Investment Advisers Act Rules

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (the "Commission" or "SEC") is adopting amendments to Form ADV that are designed to provide additional information regarding advisers, including information about their separately managed account business, incorporate a method for private fund adviser entities operating a single advisory business to register using a single Form ADV, and make clarifying, technical and other amendments to certain Form ADV items and instructions. The Commission also is adopting amendments to the Advisers Act books and records rule and technical amendments to several Advisers Act rules to remove transition provisions that are no longer necessary.

DATES: Effective October 31, 2016.

Compliance Date: See Section III of this final rule.

FOR FURTHER INFORMATION CONTACT: Bridget D. Farrell, Senior Counsel, Jennifer Songer, Senior Counsel, Betselot Zeleke, Attorney-Adviser, or Sara Cortes, Assistant Director at (202) 551–6787 or *IArules@sec.gov*, Investment Adviser Regulation Office, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to rules 202(a)(11)(G)–1 [17 CFR 275.202(a)(11)(G)–1], 203–1 [17 CFR 275.203–1], 204–1 [17 CFR 275.204–1], 204–2 [17 CFR 275.204–2], and 204–3 [17 CFR 275.204–3] under the Investment Advisers Act of 1940 [15 U.S.C. 80b] ("Advisers Act" or "Act"),[1] and amendments to Form ADV [17 CFR 279.1] under the Advisers Act. The Commission is also rescinding rule 203A–5 [17 CFR 275.203A–5] under the Advisers Act.

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I. Background

Form ADV is used by investment advisers to register with the Commission and with the states.[2] The information collected on Form ADV serves a vital role in our regulatory program and our ability to protect investors. On May 20, 2015,[3] we proposed amendments to Part 1A of Form ADV in three areas: Revisions to fill certain data gaps and to provide additional information about investment advisers, including their separately managed account business; amendments to incorporate a method for private fund adviser entities operating a single advisory business to register with us using a single Form ADV; and clarifying, technical and other amendments to existing items and instructions.[4]

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[1] 15 U.S.C. 80b. Unless otherwise noted, when we refer to the Advisers Act, or any paragraph of the Advisers Act, we are referring to 15 U.S.C. 80b of the United States Code, at which the Advisers Act is codified, and when we refer to rules under the Advisers Act, or any paragraph of these rules, we are referring to title 17, part 275 of the Code of Federal Regulations [17 CFR part 275], in which these rules are published.

[2] Information on Form ADV is available to the public through the Investment Adviser Public Disclosure System ("IAPD"), which allows the public to access the most recent Form ADV filing made by an investment adviser and is available at *http://www.adviserinfo.sec.gov*.

Several of the amendments to Form ADV relate to separately managed accounts. These amendments will require advisers to provide certain aggregate information about separately managed accounts that they advise. Other amendments to Form ADV that we are adopting are designed to improve the depth and quality of information that we collect on investment advisers, facilitate our risk monitoring initiatives and assist our staff in its risk-based examination program. Moreover, because Form ADV is available to the public on our Web site, these amendments also are intended to provide advisory clients and the public additional information regarding registered investment advisers.

We are also adopting amendments to Part 1A that will provide a more efficient method for the registration on one Form ADV of multiple private fund adviser entities operating a single advisory business (''umbrella registration''). The staff has provided guidance to private fund advisers regarding umbrella registration,[5] and the amendments to incorporate umbrella registration into Form ADV will make the availability of umbrella registration more widely known to advisers. Uniform filing requirements for umbrella registration in Form ADV will provide more consistent data about, and create a clearer picture of, groups of private fund advisers that operate as a single business.

The last set of amendments to Part 1A of Form ADV includes clarifying, technical and other amendments that are based on our staff's experience with the form and responding to inquiries from advisers and their service providers. These amendments should make it easier for advisers to understand and complete the form.

Separate from Form ADV, we are adopting amendments to several Advisers Act rules. First, we are adopting amendments to the books and records rule, rule 204–2, to require advisers to make and keep supporting documentation that demonstrates performance calculations or rates of return in any written communications that the adviser circulates or distributes, directly or indirectly, to any person. Advisers also will be required to maintain originals of all written communications received and copies of written communications sent by them related to the performance or rate of return of any or all managed accounts or securities recommendations. As discussed in the Proposing Release, we believe that these amendments will better protect investors from fraudulent performance claims.[6] Finally, we are adopting several technical amendments to rules under the Advisers Act to remove transition provisions that were adopted in conjunction with previous rulemaking initiatives, but that are no longer necessary.

We received 50 comment letters on our proposals, most of which were from investment advisers, trade or professional organizations, law firms and consultants.[7] Commenters generally supported the goals of the proposal. The majority of comments focused on reporting of separately managed accounts and umbrella registration. Several commenters supported collection of information on separately managed account clients, but many raised concerns about the public availability of the information and reporting on derivatives and borrowings. A diverse group of commenters supported umbrella registration. Commenters also generally supported the amendments to certain Advisers Act rules. We are adopting the proposed amendments with several modifications to address commenters' concerns. We discuss these modifications and concerns below.

II. Discussion

A. Amendments to Form ADV

1. Information Regarding Separately Managed Accounts

Several of the amendments to Form ADV that we are adopting are designed to collect more specific information about advisers' separately managed accounts. For purposes of reporting on Form ADV, we consider advisory accounts other than those that are pooled investment vehicles (*i.e.*, registered investment companies, business development companies and pooled investment vehicles that are not registered (including, but not limited to, private funds)) to be separately managed accounts. As we discussed in the Proposing Release, we currently collect detailed information about pooled investment vehicles that advisers manage, but little specific information about separately managed accounts.[8] We believe that collecting additional information about separately managed accounts will enhance our staff's ability to effectively carry out our risk-based examination program and other risk assessment and monitoring activities. We discuss below the specific separate account reporting requirements. Commenters stated that they generally understood our interest in collecting additional data on separately managed accounts,[9] but many raised concerns

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[3] *See Amendments to Form ADV and Investment Advisers Act Rules,* Investment Advisers Act Release No. 4091 (May 20, 2015) [80 FR 33718 (June 12, 2015)] (''Proposing Release'').

[4] In general, this Release discusses the Commission's rule and form amendments that will affect advisers registered with the Commission. We understand that the state securities authorities intend to consider similar changes that affect advisers registered with the states, who are also required to complete Part 1B of Form ADV as part of their state registrations.

[5] *See* American Bar Association, Business Law Section, SEC Staff Letter (Jan. 18, 2012), *available at http://www.sec.gov/divisions/investment/noaction/2012/aba011812.htm* (''2012 ABA Letter'').

[6] *See* Proposing Release, *supra* footnote 3 at Section I.

[7] Comment letters submitted in File No. S7-09-15 are available on the Commission's Web site at *http://www.sec.gov/comments/s7-09-15/s70915.shtml.* We also considered those comments submitted in File No. S7–08–15 (*Investment Company Reporting Modernization,* Investment Company Act Release No. 9776 (May 20, 2015) [80 FR 33589 (June 12, 2015)]) that addressed the amendments adopted in this Release. Those comments are available on the Commission's Web site at *http://www.sec.gov/comments/s7-08-15/s70815.shtml.* We also note that in December 2014, the Financial Stability Oversight Council (''FSOC'') issued a notice requesting comment on aspects of the asset management industry, which includes, among other entities, registered investment advisers. Although this rulemaking is independent of FSOC, the notice included requests for comment on additional data or information that would be helpful to regulators and market participants. In response to the notice, several commenters discussed issues concerning data that are relevant to this rulemaking, including data regarding separately managed accounts that was cited and considered as part of the Proposing Release.

[8] *See* Proposing Release, *supra* footnote 3 at Section II.A.1.

[9] *See, e.g.,* Comment Letter of Blackrock, Inc. (Aug. 11, 2015) (''BlackRock Letter''); Comment Letter of Dechert LLP (Aug. 11, 2015) (''Dechert Letter''); Comment Letter of Investment Adviser Association (Aug. 11, 2015) (''IAA Letter''); Comment Letter of Investment Company Institute (Aug. 11, 2015) (''ICI Letter''); Comment Letter of Invesco Advisers, Inc. (Aug. 11, 2015) (''Invesco Letter''); Comment Letter of LPL Financial LLC (Aug. 11, 2015) (''LPL Letter''); Comment Letter of Managed Funds Association (Aug. 11, 2015) (''MFA Letter''); Comment Letter of Money Management Institute (Aug. 11, 2015) (''MMI Letter''); Comment Letter of Morningstar, Inc. (Aug. 12, 2015) (''Morningstar Letter''); Comment Letter of North American Securities Administrators Association, Inc. (Aug. 11, 2015) (''NASAA Letter''); Comment Letter of National Regulatory Services (Aug. 11, 2015) (''NRS Letter''); Comment Letter of

Continued

regarding separately managed account reporting as proposed, and we discuss those concerns below.

a. Amendments to Item 5 of Part 1A and Section 5 of Schedule D

Item 5 of Part 1A and Section 5 of Schedule D currently require advisers to provide information about their advisory business including percentages of types of clients and assets managed for those clients. We had proposed to collect information specifically about separately managed accounts, including types of assets held, and the use of derivatives and borrowings in the accounts.[10] We are adopting the amendments to Item 5 of Part 1A and Section 5 of Schedule D largely as proposed, with some modifications in response to comments we received, as discussed below. We are amending Item 5 of Part 1A and Section 5 of Schedule D to require advisers to provide information on an aggregate level regarding separately managed accounts that they manage.[11] Advisers will be required to report information about the types of assets held and the use of derivatives and borrowings in separately managed accounts. Advisers that report that they have regulatory assets under management attributable to separately managed accounts in response to new Item 5.K.(1) of Part 1A will be required to complete new Section 5.K.(1) of Schedule D, and may be required to complete new Sections 5.K.(2) and 5.K.(3) of Schedule D regarding those accounts.

b. Section 5.K.(1) of Schedule D

In Section 5.K.(1) of Schedule D advisers will be required to report the approximate percentage of separately managed account regulatory assets under management that are invested in twelve broad asset categories, modified from the ten that were proposed in response to comments received and discussed below. As proposed, advisers with at least $10 billion in regulatory assets under management attributable to separately managed accounts will report, on an annual basis, both mid-year and end of year[12] percentages while advisers with less than $10 billion in regulatory assets under management attributable to separately managed accounts will report only end of year percentages. As we stated in the Proposing Release, we believe this information will allow us to better monitor this segment of the investment advisory industry and identify advisers that specialize in particular asset classes.[13] We are adopting the amendments to Section 5.K.(1) of Schedule D largely as proposed, with some minor modifications in response to comments we received, as discussed below.

While some commenters generally supported the collection of this information,[14] others suggested requiring a minimum regulatory assets under management or number of account threshold for reporting on this section to minimize burdens on small and mid-sized advisers.[15] We recognize that this reporting will impose some burden on all advisers, including smaller advisers, but we believe that gathering this information for all registered advisers is important for us to gain a full understanding of assets held in separately managed accounts managed by investment advisers of different sizes. This section requires advisers, on an annual basis, to report aggregate separate account investments across twelve categories of investments. We believe that requiring all advisers to separately managed accounts to report this information will enable us to gain a more fulsome picture of assets held in separately managed accounts. We have also tailored and limited the scope of information to be reported and the frequency of such reporting.

With respect to the categories of investments listed in Section 5.K.(1), we proposed to require advisers to report the approximate percentage of separately managed account regulatory assets under management invested in ten broad asset categories.[16] Several commenters sought clarification on how to classify assets in certain categories[17] Another commenter suggested new categories, such as "private real estate" and "structured products."[18] In response to that commenter's suggestion[19] we have included a new category for "Cash and Cash Equivalents."[20] We also believe that additional delineation of equity securities would be helpful for our staff and the public, and accordingly, we have added a "Non-Exchange-Traded Equity Securities" category in addition to the "Exchange-Traded Equity Securities" category, to clarify where to report equities that are not listed on a regulated securities exchange. This information will assist our examination staff in monitoring risks associated with advisers managing separately managed account assets in securities that are not exchange traded.

Some commenters also sought clarification about how to report assets that may be classified into multiple categories.[21] Commenters also suggested that advisers be permitted to use reasonable and documented systems and methodologies for determining

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OppenheimerFunds, Inc. (Aug. 10, 2015) ("Oppenheimer Letter"); Comment Letter of Charles Schwab & Co., Inc. (Aug. 11, 2015) ("Schwab & Co. Letter"); Comment Letter of Securities Industry and Financial Markets Association, Asset Management Group and Asset Managers Forum (Aug. 11, 2015) ("SIFMA Letter"); Comment Letter of the Systemic Risk Council (Aug. 7, 2015) ("SRC Letter"); Comment Letter of T. Rowe Price Associates, Inc. (Aug. 11, 2015) ("T. Rowe Price Letter"). However, certain commenters expressed their disapproval of the collection this data. *See* Comment Letter of The Alternative Investment Management Association Limited (Aug. 6, 2015) ("AIMA Letter") (stating that this data should not be collected unless kept confidential).

[10] *See* Proposing Release, *supra* footnote 3 at Section II.A.1.

[11] *See infra* Section II.A.2.b. for a discussion of other amendments to Item 5 of Part 1A.

[12] As stated in Amended Form ADV, Part 1A, Schedule D, Section 5.K.(1), end of year refers to the date used by the adviser to calculate its regulatory assets under management, and mid-year is the date six months before the end of year date.

[13] *See* Proposing Release, *supra* footnote 3 at Section II.A.1.

[14] *See* Schwab & Co. Letter ("We support the SEC's efforts to collect additional data seeking to minimize as much as possible the burden on regulated entities and the investors they service while helping the SEC to enhance their ability to conduct risk-based examinations of advisers."); BlackRock Letter ("We believe this information will help the Commission identify which managers specialize in SMAs that invest in certain asset classes.").

[15] Comment Letter of Advisor Solutions Group, Inc. (Aug. 11, 2015) ("ASG Letter"); AIMA Letter (suggesting that advisers with a small number of separately managed account clients or a small amount of separately managed account assets under management be exempt from reporting on separately managed accounts).

[16] Proposing Release, *supra* footnote 3 at Section II.A.1.

[17] LPL Letter; MMI Letter. *See also* Dechert Letter (stating that advisers may not maintain systems that permit them to efficiently categorize assets based on asset types in the proposed amendments); IAA Letter.

[18] BlackRock Letter. BlackRock also suggested removing "derivatives" as a category, because derivatives information for some advisers will be collected in Section 5.K.(2). We have not removed "derivatives" as a category, because are collecting different information in Section 5.K.(2) than in Section 5.K.(1).

[19] BlackRock Letter; MMI Letter.

[20] Amended Form ADV, Part 1A, Schedule D, Section 5.K.(1)(a)–(b). The text proceeding Section 5.K.(1) gives examples of cash and cash equivalents, including bank deposits, certificates of deposit, bankers' acceptances, and similar bank instruments. We also added an instruction to the text preceding Section 5.K.(1)(a) stating that advisers should round to the nearest percent when reporting this information.

[21] Comment Letter of Anonymous (Aug. 11, 2015) ("Anonymous Letter") ("derivatives" category may overlap with others); Comment Letter of JAG Capital Management LLC (June 24, 2015) ("JAG Letter") (convertible bonds, TIPS and ETFs); MMI Letter (convertible bonds, fixed income securities, preferred securities); Comment Letter of Professional Compliance Assistance, Inc. (Aug. 11, 2015) ("PCA Letter") (balanced mutual funds). *See also* IAA Letter (U.S. government agency, corporate bonds, other).

appropriate asset categories.[22] We acknowledge that some assets may be classified into more than one category or require advisers to apply discretion about which category applies to a particular asset, and agree that advisers should be permitted to use reasonable methodologies in selecting a category in which to report such an asset, but should not double count assets. Accordingly, in response to these comments, we are adding an instruction to Item 5.K.1 that advisers may use their own internal methodologies and the conventions of their service providers in determining how to categorize assets, so long as their methodologies are consistently applied and consistent with information the advisers report internally and to current and prospective clients, but should not double count assets. We believe that providing this flexibility, which we modeled after an instruction in Form PF, acknowledges that advisers may categorize the same or similar assets differently based on different methodologies.

Some commenters expressed concerns about the proposed reporting of "Corporate Bonds—Investment Grade" and "Corporate Bonds—Non-Investment Grade," based on the proposed definitions of such terms, as they believed that this would require advisers to make subjective decisions about how to classify assets and could result in inconsistent reporting. These commenters requested that the Commission eliminate the reporting requirement, or either provide a more objective definition or permit an adviser to follow and rely on the classifications made by another investment adviser.[23] Another commenter noted the reference to "liquidity" in the definition and requested that the Commission seek a consistent approach to liquidity-related concepts across reporting regimes.[24]

In response to these comments, we are removing the proposed definitions of these terms from Form ADV. Given the instruction we have added permitting advisers to use their own consistently applied methodologies to select asset categories, we believe that the definitions are no longer necessary. We recognize that an adviser might reasonably categorize the same or similar assets differently from another adviser. Even with such differences, we believe that this categorization will provide useful information, particularly given the Commission's intended purpose for requiring such reporting, which is to better understand how assets in separately managed accounts are invested across that industry, rather than to impose a standard of creditworthiness for such assets.

Other commenters suggested we provide instructions as to whether advisers need to look through investments in funds or ETFs, for example, and report the underlying asset type.[25] With respect to looking through an account's investments in funds, advisers should not do so and we have clarified this in the form.[26] Advisers should not look through investments in funds because we want to understand the extent to which separately managed account assets are invested in funds as well as other types of investments.

c. Section 5.K.(2) of Schedule D

We are also adopting amendments to add Section 5.K.(2) of Schedule D to Form ADV to require advisers to separately managed accounts to report information regarding the use of borrowings and derivatives in those accounts with modifications from the proposal in response to commenters. These amendments are designed to provide data to assist our staff in identifying and monitoring the use of borrowings and derivatives exposures in separately managed accounts as part of the staff's risk assessment and monitoring programs. Some commenters supported our proposal for the collection of that data.[27] However, as discussed below, several other commenters expressed concern about the proposed reporting thresholds, the public disclosure of certain information,[28] the use of gross notional metrics and the burden associated with reporting this information. The specific gross notional metrics used in Section 5.K.(2) are "gross notional value" and "gross notional exposure," as proposed. The calculation of gross notional exposure includes borrowings and the gross notional value of derivatives. The definition of "gross notional value" specifies how derivatives are measured when determining an account's gross notional exposure.[29]

One commenter suggested requiring reporting on derivatives only if there is a minimum gross notional amount of derivatives.[30] Another commenter suggested as an alternative requiring derivatives reporting only if the adviser uses leverage as part of its investment strategy.[31] We disagree with these approaches as they would give us information only about a segment of the separately managed account industry that uses derivatives or borrowings, and because the line between advisers that use derivatives and borrowings strategically and those that do not can be fluid and difficult to define. While we are adopting Section 5.K.(2) largely as proposed, we have modified it in certain places in response to commenters' concerns, as discussed below.

As proposed, advisers with at least $150 million but less than $10 billion in regulatory assets under management attributable to separately managed accounts would have been required to annually report in Section 5.K.(2)(b) the number of accounts and average borrowings that corresponded to ranges of net asset values and gross notional exposures, as of the date the adviser used to calculate its regulatory assets under management for purposes of the adviser's annual updating amendment. Advisers with at least $10 billion in regulatory assets under management attributable to separately managed accounts would have been required to annually report in Section 5.K.(2)(a) the number of accounts, average borrowings, and average derivatives exposures across six categories of derivatives, based on the same ranges of net asset values and gross notional exposures in Section 5.K.(2)(b), as of the date used by the adviser to calculate its regulatory assets under management for purposes of its annual updating amendment, and six months before that date.

We received a diversity of views about whether the proposed reporting thresholds of at least $150 million in regulatory assets under management attributable to separately managed accounts, and at least $10 billion in regulatory assets under management attributable to separately managed accounts for additional reporting, were appropriate, and if not, what these thresholds should be.[32] Certain commenters suggested thresholds based on number of accounts or the size of individual separately managed accounts. However, we believe establishing thresholds based on regulatory assets under management attributable to separately managed accounts better provides us with comparability across advisers and appropriately advances our regulatory goal of gaining a more complete understanding of advisers' separately managed account business as compared to the alternatives suggested by commenters. Several commenters recommended that we increase the $150 million threshold to $500 million on the basis that such a change would allow the Commission to collect 95% of the data that it would using the $150 million threshold, while relieving approximately 3,000 advisers from having to report derivatives and borrowings information.[33] On balance, and based on our staff's experience with small advisers, we agree with commenters that this is a sensible accommodation that would allow us to meet our regulatory objectives while alleviating reporting burdens on smaller advisers. As a result, we have raised the minimum reporting threshold to $500 million. Advisers with at least $500 million but less than $10 billion in separately managed account regulatory assets under management will be required to report on Section 5.K.(2)(b) the amount of separately managed account regulatory assets under management and the dollar amount (rather than the proposed average amount) of borrowings attributable to those assets that correspond to three levels of gross notional exposures rather than four levels as proposed. Advisers with at least $10 billion in separately managed account regulatory assets under management will be required to report on Section 5.K.(2)(a) the information required in Section 5.K.(2)(b) as well as the derivative exposures across the same six derivatives categories that were proposed. Also as proposed, advisers may limit their reporting for both (a) and (b) to individual accounts of at least $10 million.[34]

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[22] Dechert Letter; IAA Letter.

[23] LPL Letter; MMI Letter.

[24] IAA Letter.

[25] ASG Letter; MMI Letter; NRS Letter; Schwab & Co. Letter.

[26] We have added the following sentence to the text preceding Schedule D, Section 5.K.(1)(a): "Investments in derivatives, registered investment companies, business development companies, and pooled investment vehicles should be reported in those categories. Do not report those investments based on related or underlying portfolio assets."

[27] NASAA Letter; SRC Letter.

[28] We discuss public disclosure of separately managed account information in Section II.A.1.e.

[29] Gross notional exposure of an account is "the percentage obtained by dividing (i) the sum of (a) the dollar amount of any borrowings and (b) the gross notional value of all derivatives, by (ii) the regulatory assets under management of the account." Amended Form ADV, Part 1A, Schedule D, Item 5.K.(2). Gross notional value is defined in the Glossary to Form ADV as "The gross nominal or notional value of all transactions that have been entered into but not yet settled as of the reporting date. For contracts with variable nominal or notional principal amounts, the basis for reporting is the nominal or notional principal amounts as of the reporting date. For options, use delta adjusted notional value."

[30] Anonymous Letter.

[31] JAG Letter.

Another change we are making to Section 5.K.(2) in response to commenters is to base the reporting of borrowings and derivatives on regulatory assets under management in separately managed accounts, rather than net asset value as proposed. One commenter noted that advisers do not currently characterize their individual client accounts according to net asset values.[35] We agree, and accordingly advisers will be required to report both the amount of regulatory assets under management and borrowings in their separately managed accounts that correspond to ranges of gross notional exposure of those accounts. Regulatory assets under management is already used throughout Form ADV, and should be available to advisers for purposes of Section 5.K.(2). Similarly, the reporting of borrowings in Section 5.K.(2) has been revised to require information about the total dollar amount of borrowings that correspond to different ranges of gross notional exposure, and not the weighted average amount (which is based on a percentage of net asset value).[36] We believe these changes will reduce burdens for advisers completing this section, while providing our staff with additional information regarding borrowings and derivatives exposures in separately managed accounts.

Commenters presented a range of concerns and suggestions about the use of gross notional metrics in reporting on Section 5.K.(2). Some commenters supported the use of gross notional metrics for assessing the use of derivatives and borrowings in separately managed accounts,[37] while others raised issues concerning the utility of gross notional metrics.[38] Several commenters stated that gross notional metrics are not accurate measures of leverage or risk and argued that they provide little value without context, and they could be misleading or misunderstood.[39] Some commenters suggested reporting derivatives and borrowings in Form ADV similar to how leverage is reported in Form PF or in the AIFMD framework.[40] For example, one commenter suggested reporting long and short dollar amounts, similar to Form PF.[41] We acknowledge these commenters' concerns and recognize that gross notional metrics may not always reflect the way in which derivatives are used in a separately managed account and are not a risk measure.[42] We also recognize that there are other measures or additional data points that could be used to evaluate the use of derivatives in a separately managed account, which may depend on various considerations, such as investment strategy, types of investments, and the specific risks that are being considered. The calculations of gross notional exposure and gross notional value that we proposed and are adopting today rely on measures common to all advisers: regulatory assets under management of an account; total amount of borrowings in an account; and the notional value of derivatives. As we noted in the Proposing Release, gross notional metrics are commonly used metrics and are comparable to the information collected on Form PF regarding private funds. On balance, therefore, we continue to believe that, for most types of derivatives the gross notional metrics generally provide a measure that is sufficient for this regulatory purpose, which is to collect information about the scale of an account's derivatives activities, rather than to collect specific risk metrics or more granular information regarding the ways in which derivatives are used in a separate account. Section 5.K.(2) also provides advisers the option of including a narrative description of the strategies and/or manner in which borrowings and derivatives are used in the management of separately managed accounts. To the extent that advisers are concerned that disclosure of gross notional metrics would be misleading, they could provide in the space provided in Section 5.K.(2) an additional narrative description regarding their use of derivatives in these accounts.

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[32] ASG agreed with the $150 million threshold. Oppenheimer agreed with the thresholds, but also suggested a threshold based on number of accounts, below which the adviser would not be required to respond to Section 5.K.(2), and permitting advisers to round number of accounts to the nearest five in a particular range. IAA recommended increasing the $150 million threshold to $500 million but supported the $10 billion threshold. SIFMA also agreed with the thresholds, but suggested changing the account-level reporting thresholds to minimize confidentiality concerns and permitting advisers to round to the nearest 5 accounts in a particular range. AIMA noted that the proposed thresholds at the adviser level and at the individual separately managed account level are low for advisers with institutional clients and recommended not requiring advisers with less than $150 million in separately managed account assets to report any separately managed account information, including in Sections 5.K.(1) and 5.K.(3). Anonymous suggested that the reporting threshold should be based on a minimum gross notional amount in relation to the adviser's total regulatory assets under management. BlackRock suggested that reporting thresholds should not be tied to aggregate adviser separately managed account regulatory assets under management, but rather only to individual separately managed account regulatory assets under management.

[33] IAA Letter; Comment Letter of the New York State Bar Association, Business Law Section, Securities Regulation Committee, Private Investment Funds Subcommittee (Aug. 12, 2015) ("NYSBA Committee Letter"); PCA Letter; Schwab & Co. Letter. IAA estimated that if the minimum threshold were $150 million, the Commission would collect data on approximately $37.8 trillion in separately managed account assets under management from 7,257 advisers. However, it estimated that if the threshold were raised to $500 million, the Commission would collect data on approximately $36.8 trillion in separately managed account assets under management from approximately 3,700 advisers. A recent analysis of Form ADV by Commission staff filings shows that over 2,800 advisers will be relieved from the filing requirement and we will receive information on 98% of the assets for which we would have received reporting under the proposed $150 million threshold. IARD system data as of May 16, 2016.

[34] Some commenters suggested making the exclusion of individual accounts under $10 million optional because excluding those accounts might, in some cases, be more costly to firms. *See* Dechert Letter; IAA Letter; NYSBA Committee Letter. We have revised the text in Section 5.K.(2) to read, "You may, but are not required to, complete the table with respect to any separately managed account with regulatory assets under management of less than $10,000,000."

[35] IAA Letter.

[36] One commenter suggested that reporting of borrowing is duplicative of reporting of margin by broker-dealer custodians to FINRA. JAG Letter. While we recognize that broker-dealers report this information, we note that parties other than broker-dealers may serve as custodians to separately managed accounts.

[37] Comment Letter of CFA Institute (Aug. 10, 2015) ("CFA Letter") (observing that notional exposure metrics are valuable in conducting investment and operational analyses, but provide less value for risk management); NASAA Letter (stating that the proposal contemplates collecting commonly used metrics on the use of derivatives and borrowings, consistent with Form PF); and SRC Letter (suggesting that the collection of data relating to gross notional exposure, borrowings and gross notional value of derivatives would provide the Commission with "invaluable insight into the use of derivatives and borrowings by advisers in separately managed accounts.").

[38] *See, e.g.* NYSBA Committee Letter (stating that publicly reporting gross notional exposures without also reflecting actual exposure on the form would be misleading and potentially alarming to investors) and MFA Letter (asserting that gross notional disclosures provide an inaccurate representation of economic or market exposures and would not provide meaningful information, and thus should not be required).

[39] BlackRock Letter; Dechert Letter; IAA Letter; Invesco Letter.

[40] Dechert Letter (suggesting allowing additional data points, such as the ones required in Form PF, to better provide the Commission a more comprehensive understanding of the extent to which derivatives are used in separately managed accounts and the relevant risks associated with them); Blackrock Letter (providing an appendix containing a comprehensive framework for calculating leverage, similar to AIFMD's commitment leverage approach, under which derivatives used for hedging positions and

Many commenters requested that the term "derivatives" be defined as part of this rulemaking.[43] Several of these commenters suggested the Commission adopt a definition that provides flexibility to adapt to changing financial markets and instruments, such as the characteristic-based definition of derivatives in FASB ASC 815.[44] Another commenter, however, suggested that we should not define derivatives, similar to Form PF.[45] We believe that Form ADV, which collects aggregate portfolio information, is similar to Form PF. Thus, consistent with adviser reporting on Form PF and the proposal, we have decided not to define the term at this time. Several commenters requested clarification on whether interest rate derivatives should be presented in terms of 10-year bond equivalents, consistent with Form PF.[46] We have added a sentence to the definition of "interest rate derivative" in the Glossary that interest rate derivative information should be presented in terms of 10-year bond equivalents. Regarding the term "equity derivative," one commenter requested confirmation that the term "listed" as used in Form ADV has the same meaning as in Form PF. We confirm that the term "listed equity derivatives" refers to exposures to derivatives for which the underlying asset is listed equities.[47]

Finally, we are also revising the proposal in ways that should both alleviate concerns about confidentiality, which we discuss more fully below, and simplify reporting of separately managed account information. First, we reduced the number of categories of gross notional exposure that we proposed in the charts. As proposed, Section 5.K.(2) included four categories of gross notional exposure by which accounts and borrowings were reported. This has been reduced to three categories of gross notional exposure: less than 10%, 10—149% and 150% or more. In addition to reducing the number of categories from four to three, we changed the highest threshold from 200% or more to 150% or more. After consideration of comments received regarding the potential burdens of providing this information, we believe that the use of three categories instead of four and changing the highest threshold from 200% or more to 150% or more will reduce the reporting burden on advisers while providing us with sufficient information regarding the use of derivatives and borrowings by investment advisers in separately managed accounts. In addition, we believe that these modifications provide less granular information than proposed, thereby mitigating some concerns commenters raised regarding confidentiality. We also modified Section 5.K.(2) to remove reporting of the number of separately managed accounts. As proposed, Section 5.K.(2) would have required advisers to report the number of accounts that corresponded to the accounts' net asset value and gross notional exposure. Section 5.K.(2)(a) and (b) now require reporting of regulatory assets under management based on ranges of gross notional exposure of accounts.[48]

d. Section 5.K.(3) of Schedule D

As proposed, we are amending Form ADV to require advisers to identify any custodians that account for at least ten percent of separately managed account regulatory assets under management, and the amount of the adviser's regulatory assets under management attributable to separately managed accounts held at the custodian.[49] This information will allow our examination staff to identify advisers whose clients use the same custodian in the event, for example, a concern is raised about a particular custodian. As we discussed in the Proposing Release, similar disclosures are required for custodians to pooled investment vehicles[50] and registered investment companies.[51]

We received several comments on this aspect of the proposal. For example, a commenter suggested that we obtain this information from other parties, including custodians.[52] However, we do not directly regulate all separately managed account custodians and we believe this information is available to advisers because advisers interact with custodians when placing trades on behalf of separately managed account clients. Some commenters agreed with the ten percent of regulatory assets under management threshold for reporting custodians of the adviser's separately managed account client

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offsetting long and short positions do not create leverage).

[41] AIMA Letter.

[42] For example, different derivatives transactions having the same notional amount but different underlying reference assets—for example, an interest rate swap and a credit default swap having the same notional amount—may expose a separately managed account to very different potential investment risks and potential payment obligations.

[43] ASG Letter; Oppenheimer Letter; PCA Letter; SIFMA Letter; T. Rowe Price Letter.

[44] Oppenheimer Letter; SIFMA Letter; T. Rowe Price Letter.

[45] IAA Letter.

[46] AIMA Letter; IAA Letter; MFA Letter.

[47] We note that current staff guidance regarding this term in Form PF takes a similar approach. *See* Form PF, Frequently Asked Questions, Question 26.1.

[48] Amended Form ADV, Part 1A, Schedule D, Section 5.K.(2).

[49] Amended Form ADV, Part 1A, Schedule D, Section 5.K.(3). We added "aggregate" before "separately managed account regulatory assets under management" to the text preceding the section for clarity.

[50] Amended Form ADV, Part 1A, Schedule D, Section 7.B.(1), Question 25.

[51] Form N–1A, Item 19(h)(3).

[52] BlackRock Letter. *See also* Comment Letter of Financial Engines Advisors, LLC (Aug. 11, 2015) ("Financial Engines Letter") (suggesting identification of recordkeeper, rather than custodian, where advised assets are associated with a 401(k) plan).

assets.[53] Other commenters recommended that the Commission modify the threshold, and raised concerns about this reporting for smaller advisers.[54] We agree with the commenters who believe that the ten percent threshold is appropriate. We recognize that this reporting will impose some burdens on all advisers, including smaller advisers. However, we are adopting the ten percent threshold as proposed because we continue to believe it, rather than a higher threshold, most appropriately advances our regulatory goal of identifying and obtaining a more complete picture regarding the custodians serving a significant proportion of an adviser's separately managed account clients. Moreover, we believe we have appropriately tailored and limited the scope of information to be reported since this requirement at most will require advisers to identify ten custodians.

In addition, some commenters recommended deleting or clarifying the requirement to identify the location of the custodian's office.[55] These commenters reasoned that because of the electronic nature of custodian records, and the current advisers' practice of not maintaining this physical location information as a matter of course, disclosure of the identity of the custodian, rather than the location of the office, would be of primary benefit to the Commission. This information is consistent with similar questions we ask about custodians in Schedule D, Section 7.B.(1), Question 25 of Form ADV. Location information allows us to identify the appropriate contacts when a custodian is part of a large organization with multiple offices.[56] Therefore, we are adopting these requirements as proposed.

e. Public Disclosure of Separately Managed Account Information

While commenters understood our reasons for collecting information on separately managed accounts, many expressed concerns that the new reporting would lead to disclosure of client-identifying information or confidential or proprietary information about investment strategy.[57] Commenters also expressed concern that public disclosure of separately managed account information could put advisers with a small number of separately managed account clients at a competitive disadvantage if clients were concerned about the reporting on Form ADV being linked or attributable to their separately managed accounts.[58] We address these concerns below.

Section 210(a) of the Advisers Act requires information in Form ADV to be publicly disclosed, unless we find that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors.[59] As discussed in the Proposing Release, we believe these amendments will enhance our staff's risk assessment and monitoring activities, which also serve to benefit investors.[60] We also believe that aggregate information about separately managed accounts may assist the public in better understanding advisers' management of separately managed account clients.[61] This information may directly improve the ability of clients and potential clients of investment advisers to make more informed decisions about the selection and retention of investment advisers, which, in turn, may also benefit the public by increasing competition among investment advisers for clients. For these reasons, we continue to believe that public disclosure of information about separately managed accounts on Form ADV is appropriate in the public interest as well as for the protection of investors. We have, however, made several modifications to our proposal, discussed below, in response to commenters.

Some commenters also expressed broader concerns that public disclosure of separately managed account holdings or borrowings and derivatives information would reveal proprietary investment strategies.[62] We do not believe that public disclosure of aggregate information in Schedule D, Sections 5.K.(1) or (2) would lead to the revelation of proprietary investment strategies. This information would be reported for one or two data points per year,[63] depending on the amount of regulatory assets under management attributable to separately managed accounts, ninety days after the end of the adviser's fiscal year,[64] and only on an aggregate basis for all the separately managed account clients that an adviser manages. Given the limited number of data points that advisers to separately managed accounts must report on, the fact that the information is reported both in aggregate and in broad categories across an adviser's separately managed accounts, and the time lag between those data points and any public reporting, we disagree that this reporting could compromise trading strategies. In addition, as discussed above, we reduced the number of categories of gross notional exposures in Section 5.K.(2), which means advisers will be required to report less granular information.[65]

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[53] Anonymous Letter; CFA Letter; PCA Letter.

[54] AIMA Letter (suggested a twenty percent threshold); BlackRock Letter; IAA Letter; MMI Letter; NRS Letter (suggested a minimum separately managed account regulatory assets under management threshold in lieu of or in addition to the ten percent threshold).

[55] ASG Letter; IAA Letter; MMI Letter; Oppenheimer Letter; PCA Letter; SIFMA Letter.

[56] One commenter also sought clarification about reporting custodians who have multiple legal entities. IAA Letter. Advisers do not have to determine affiliations of related custodians for purposes of this item, but rather should report the particular legal entity that is custodian for the adviser's separately managed account assets.

[57] Comment Letter of the American Bar Association, Section of Business Law, Federal Regulation of Securities Committee (Sept. 3, 2015) ("ABA Committee Letter"); AIMA Letter; Anonymous Letter; ASG Letter; BlackRock Letter; Dechert Letter; IAA Letter; Invesco Letter; MFA Letter; NYSBA Committee Letter; Oppenheimer Letter; Comment Letter of Schulte Roth & Zabel LLP (Aug. 11, 2015) ("Schulte Letter"); Comment Letter of Shearman & Sterling LLP (Aug. 11, 2015) ("Shearman Letter"); SIFMA Letter; Comment Letter of Securities Industry and Financial Markets Association Asset Management Group and Asset Managers Forum (Jan. 13, 2016) ("SIFMA II Letter"). *See also* Comment Letter of Private Equity Growth Capital Council (Aug. 11, 2015) ("PEGCC Letter").

[58] ABA Committee Letter; AIMA Letter; Anonymous Letter; BlackRock Letter; Dechert Letter; IAA Letter; MFA Letter; NYSBA Committee Letter; Oppenheimer Letter; Schulte Letter; Shearman Letter; SIFMA Letter; SIFMA II Letter.

[59] Advisers Act section 210(a). Certain commenters suggested that this information be filed in a nonpublic manner, similar to Form PF. *See* ABA Committee Letter; PEGCC Letter. We note that Form PF is filed on a confidential basis under Advisers Act section 204(b), which prohibits the Commission from disclosing Form PF information unless those disclosures are made to Congress, other Federal agencies, or courts under certain conditions. Advisers Act section 204(b)(8).

[60] Proposing Release, *supra* footnote 3 at Section II.A.1.

[61] *C.f.,* NASAA Letter ("These amendments would provide additional necessary information to the SEC and state regulators, as well as members of the public, far outweighing any regulatory burden the proposal creates.").

[62] *See, e.g.,* ABA Committee Letter ("While individual types of securities would not be disclosed, the percentage of the portfolio in ten different asset categories would be subject to unprecedented public scrutiny, as would be detailed breakdowns of derivatives exposures and borrowings."); BlackRock Letter; Dechert Letter; MFA Letter.

[63] Amended Form ADV, Part 1A, Schedule D, Sections 5.K.(1) and (2). Although two commenters recommended against larger advisers providing both mid-year and end of year separately managed account information, we believe this information is important to understanding advisers to the largest separately managed accounts. LPL Letter; NRS Letter.

[64] Advisers are required to update the derivatives and borrowings information annually, when filing their annual updating amendment to Form ADV, which is consistent with the requirement for updating other information in Item 5 of Form ADV. Advisers with at least $10 billion in separately managed account regulatory assets under management would be required to report both mid-year and end of year information as part of their annual filing. Many commenters supported the annual reporting and recommended against more frequent reporting. Anonymous Letter; ASG Letter; CFA Letter; Comment Letter of Capital Research and Management Company (Aug. 11, 2015) ("Capital Research Letter"); MMI Letter; Morningstar Letter; NRS Letter; PCA Letter; Shearman Letter. Form ADV is required to be amended at least annually, within 90 days of the end of the adviser's fiscal year. *See* rule 204–1.

We are mindful of commenters' concerns regarding disclosure of client-specific information and related competition concerns.[66] Accordingly, we revised Item 5.D., which lists the number of advisory clients in categories, to include a "fewer than 5 clients" column.[67] We also have modified Section 5.K.(2) to remove reporting of the number of accounts. As proposed, Section 5.K.(2) would have required reporting of the number of accounts that correspond to the accounts' net asset value and gross notional exposure. As adopted, Section 5.K.(2)(a) and (b) will require reporting solely by ranges of gross notional exposure of accounts.[68] We believe that these changes mitigate the risk of any client-specific information being disclosed in Item 5.D. and Sections 5.K.(1) and (2).

f. Additional Comments About Reporting of Separately Managed Accounts

Additional comments regarding separately managed account reporting in Schedule D included comments about the definition of separately managed account, the treatment of subadvisers, and the reporting requirements when both the registered investment adviser and the separately managed account owner are not United States persons.

First, several commenters sought clarification of the definition of the term "separately managed account" as used in Form ADV.[69] We do not believe that a formal definition of this term is required because we have included instructions in the text preceding Sections 5.K.(1) and (2) to clarify that any regulatory assets under management reported in Item 5.D.(3)(d) (investment companies), (e) (business development companies), and (f) (other pooled investment vehicles) should not be reported in Schedule D, Sections 5.K.(1) or (2). Thus, regulatory assets under management reported for those types of clients in Item 5.D.(3) should not be considered separately managed account assets and should not be reported in Sections 5.K.(1) or (2).

Second, several commenters requested clarification about how to treat subadviser relationships in reporting separately managed account information, including suggestions that only advisers with discretionary authority report information in these sections.[70] In response to these concerns, we are clarifying the instructions in the text preceding Section 5.K.(1)(a) to expressly state, as they already do for Section 5.K.(2), that a subadviser to a separately managed account should provide information only about the portion of the account that it subadvises.[71] We recognize that these instructions may require both advisers and subadvisers to report on the same regulatory assets under management (*i.e.,* the assets that they both manage in an account) in Sections 5.K.(1) and (2) of their separate Form ADVs, which is consistent with the current reporting structure of regulatory assets under management in Form ADV.

Further, in response to suggestions that only advisers with discretionary authority should be required to report information in Sections 5.K.(1) and (2), we note that these sections both require responses based on the regulatory assets under management an adviser reports in Item 5.F. Per the instructions to Item 5.F., advisers are already required to consider the role of discretionary authority when calculating regulatory assets under management. Those instructions require that the calculation include only assets over which advisers provide continuous and regular supervisory or management service.[72] The instructions further state that an adviser "provide[s] continuous and regular supervisory or management services with respect to an account" if: (a) The adviser has discretionary authority over and provides ongoing supervisory or management services with respect to the account; or (b) the adviser does not have discretionary authority over the account, but has ongoing responsibility to select or make recommendations, based upon the needs of the client, as to specific securities or other investments the account may purchase or sell and, if such recommendations are accepted by the client, the adviser is responsible for arranging or effecting the purchase or sale.[73] Thus, if an adviser does not provide continuous and regular supervisory or management services with respect to an account, those account's assets should not be reported as regulatory assets under management in Item 5.F, and would not be reported in Sections 5.K.(1) and (2).

A final suggestion from commenters was to exclude from the reporting requirements any separately managed account held by a non-United States person and managed by an investment adviser whose principal office and place of business is outside the United States.[74] As proposed, and consistent with the reporting of regulatory assets under management generally, we are requiring each adviser whose principal office and place of business is outside the United States to report information regarding separately managed accounts for all of their clients, including clients who are not United States persons.[75] We believe that the consistent reporting of information in Item 5 will be valuable in our and the public's understanding of the new separately managed account items as they are a subset of the regulatory assets under management already being reported by registered investment advisers.

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[65] *Supra* Section II.A.1.c.

[66] *See, e.g.,* ABA Committee Letter; AIMA Letter; BlackRock Letter ("For a particular adviser, there may be only one or two accounts in a particular category, potentially making this client identifiable and its RAUM with an adviser public information."); Dechert Letter; IAA Letter; MFA Letter ("[A] fund manager may need to report data of a single SMA client, which is not suitable for public disclosure."); NYSBA Committee Letter ("In addition, if an adviser has a small number of accounts, the disclosure of any of the information would be particularly problematic as others may be in a position to determine the identity of the clients in any such account."); Oppenheimer Letter; SIFMA Letter.

[67] Several commenters suggested limiting reporting for five or fewer clients, or rounding to the nearest five clients. IAA Letter; NYSBA Committee Letter; Oppenheimer Letter; SIFMA Letter. Other commenters suggested that advisers with a small number of separately managed account clients be excluded from reporting on separately managed accounts. *See, e.g.,* AIMA Letter; SIFMA Letter. However, a small number of accounts could still include a large amount of assets or significant use of borrowings and derivatives. For that reason, reporting will be required on these accounts. We believe that the modifications in Item 5.D. and Schedule D, Section 5.K.(2) will address confidentiality concerns related to those accounts.

[68] Amended Form ADV, Part 1A, Schedule D, Section 5.K.(2).

[69] *See, e.g.,* IAA Letter (noting the term has not been defined in the Advisers Act); Financial Engines Letter (seeking the exclusion of assets within defined contribution plans from separately managed accounts); MMI Letter (seeking clarification for sponsors, overlay managers, portfolio managers and model providers). Commenters also sought clarification of the treatment of pooled investment vehicles that are not private funds. *See* PEGCC Letter. *See also* IAA Letter. Pooled investment vehicles include, but are not limited to, private funds.

[70] Comment Letter of JG Advisory Services LLC (Jul. 22, 2015) ("JGAS Letter"); LPL Letter; MMI Letter; NYSBA Committee Letter; SIFMA Letter. *See also* Dechert Letter; IAA Letter.

[71] Amended Form ADV, Part 1A, Schedule D, Sections 5.K.(1) and (2).

[72] *See* Form ADV, Instructions to Part 1A, Item 5.F.

[73] *Id.*

[74] AIMA Letter; PEGCC Letter; Shearman Letter. "United States person" is defined in the Glossary to Form ADV.

[75] The Form ADV Instructions to Part 1A, Item 5 that specify how regulatory assets under management must be calculated provides that accounts of clients who are not United States persons are accounts that must be included in the adviser's securities portfolios.

Commenters suggested that we not require reporting of accounts beneficially owned by those who are not United States persons and managed by advisers whose principal offices and places of business are outside the United States. These commenters noted Item 7.B. of Form ADV and Form PF generally allow advisers whose principal offices and places of business are outside the United States to exclude reporting on funds that are not United States persons, are not offered in the United States, and are not beneficially owned by any United States persons.[76] As noted above, there is not a similar exclusion in Item 5 regarding funds that are not United States persons advised by any advisers, and advisers must include those clients in response to Item 5, including their regulatory assets under management and client types. An exception like the one suggested by commenters would hamper the utility of the data collection in Item 5, which collects aggregate, census-type information regarding the adviser's total business. We are collecting this information to better inform Commission staff and the public about this segment of the investment adviser industry.[77]

In the Proposing Release, we requested comment on whether to require advisers to report on securities lending and repurchase agreements in separately managed accounts.[78] While some commenters supported collection of this information,[79] others noted that advisers may not be aware of or directly involved in securities lending activity in separately managed accounts,[80] and several commenters objected to the disclosure.[81] In response to the comments we received, we are not requiring disclosure regarding securities lending or repurchase agreements at this time.

2. Additional Information Regarding Investment Advisers

In addition to the amendments outlined above regarding separately managed accounts, we are adopting, largely as proposed, several new questions and amending existing questions on Form ADV regarding identifying information, an adviser's advisory business, and affiliations. As discussed in the Proposing Release, these items were developed through our staff's experience in examining and monitoring investment advisers, and are designed to enhance our understanding and oversight of investment advisers and to assist our staff in its risk-based examination program.

a. Additional Identifying Information

We are adopting several amendments to Item 1 of Part 1A of Form ADV as proposed to improve certain identifying information that we obtain about advisers. Item 1 currently requires an adviser to provide a Central Index Key number ("CIK Number") in Item 1.N. only if the adviser is a public reporting company under Sections 12 or 15(d) of the Securities Exchange Act of 1934.[82] We are removing this question from Item 1.N. and adding a question to Item 1.D. that requires an adviser to provide all of its CIK Numbers if it has one or more such numbers assigned,[83] regardless of public reporting company status.[84] As we explained in the Proposing Release, requiring registrants to provide all of their assigned CIK Numbers, if any, will improve our staff's ability to use and coordinate Form ADV information with information from other sources.[85] The commenter who weighed in on the reporting of CIK Numbers did not object to this amendment, which we are adopting as proposed.

Item 1.I. of Part 1A of Form ADV currently asks whether an adviser has one or more Web sites, and Section 1.I. of Schedule D requests the addresses of each Web site. We are amending Item 1.I. largely as proposed to also ask whether the adviser has one or more accounts on social media platforms, such as Twitter, Facebook or LinkedIn, and requesting the address of each of the adviser's social media pages in addition to the address of each of the adviser's Web sites in Section 1.I. of Schedule D.[86] As discussed in the Proposing Release, our staff may use this information to help prepare for examinations of investment advisers and compare information that advisers disseminate across different social media platforms, as well as to identify and monitor new platforms. Current and prospective clients may use this information to learn more about advisers and make more informed decisions regarding the selection of advisers.[87]

Several commenters were generally supportive of our proposed approach to social media reporting,[88] but some commenters were concerned that it would be too burdensome for advisers and not useful to investors.[89] Several commenters requested clarification on the types of social media platforms that trigger the reporting requirement,[90] and some commenters recommended that we limit required reporting to accounts on social media platforms where the adviser controls the content.[91] These commenters pointed out that there may be social media platforms that reference an adviser over which the adviser has no control and of which the adviser may not even be aware.[92] We agree, and we have revised Item 1.I. of Part 1A and Section 1.I. of Schedule D to note that the required reporting is limited to accounts on social media platforms where the adviser controls the content.[93] Commenters generally agreed with the proposal's approach of not requiring information about the social media accounts of an adviser's employees.[94]

A commenter requested that we limit required reporting to accounts on public-facing social media platforms used to promote the adviser's business.[95] We did not intend to require reporting on information posted on an adviser's internal social media platform or information not intended to promote the adviser's business to potential clients (*e.g.*, information posted on a job board intended to attract job applicants). We have revised the text preceding Item 1.I. of Part 1A and Section 1.I. of

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[76] AIMA Letter; PEGCC Letter; Shearman Letter.

[77] *See infra* Section II.A.3 for a discussion of the application of the Advisers Act to non-U.S. advisers.

[78] Proposing Release, *supra* footnote 3 at Section II.A.1.

[79] CFA Letter; SRC Letter.

[80] JAG Letter; NRS Letter; Comment Letter of The Risk Management Association, Committee on Securities Lending (Aug. 10, 2015) ("RMA Committee Letter"); Comment Letter of State Street Corporation (Aug. 11, 2015) ("State Street Letter").

[81] MFA Letter: PCA Letter. *See also* ASG Letter.

[82] Form ADV, Part 1A, Item 1.N.

[83] The SEC assigns CIK Numbers in EDGAR not only to identify entities as public reporting companies, but also when an entity is registered with the SEC in certain other capacities, such as a transfer agent.

[84] Amended Form ADV, Part 1A, Item 1.D.(3).

[85] Proposing Release, *supra* footnote 3 at Section II.A.2.

[86] Amended Form ADV, Part 1A, Item 1.I. and Section 1.I. of Schedule D.

[87] Proposing Release, *supra* footnote 3 at Section II.A.2.

[88] CFA Letter; IAA Letter; LPL Letter; Morningstar Letter; NASAA Letter. *See also* BlackRock Letter (understood our rationale for requesting this information).

[89] Comment Letter of TMorgan Advisers, LLC (June 28, 2015) ("Morgan Letter"); NRS Letter; NYSBA Committee Letter; Oppenheimer Letter.

[90] ASG Letter; IAA Letter; MMI Letter; SIFMA Letter.

[91] ASG Letter; MMI Letter; SIFMA Letter.

[92] MMI Letter. *See also* ASG Letter.

[93] An adviser may control its social media content, notwithstanding the fact that a social media platform has a policy to edit or remove content (such as offensive content) across the platform.

[94] ASG Letter; MFA Letter; MMI Letter; Morgan Letter; Morningstar Letter; NRS Letter; NYSBA Committee Letter.

[95] IAA Letter.

Schedule D to clarify that the required reporting is limited to accounts on publicly available social media platforms.

Another commenter requested that we limit required reporting to accounts on social media platforms that promote the adviser's business in the United States or are targeted towards the adviser's U.S. clients.[96] The commenter pointed out that there are circumstances in which an adviser might have additional accounts on social media platforms that are not used to promote the adviser's business in the United States or are targeted towards the adviser's non-U.S. clients and that reporting on such accounts would provide little value to the Commission and could be confusing to clients or potential clients seeking information about an adviser.[97] We believe that, to the extent an account on a social media platform is used to promote the business of an adviser registered with the Commission, the account should be disclosed in order to better inform our staff about the adviser's use of social media. However, if an account on a social media platform is used solely to promote the business of an affiliate or affiliates that are not advisers registered with the Commission, the account does not need to be disclosed on Form ADV.

A few commenters were concerned that the burden on advisers of updating social media information on Form ADV promptly if the information becomes inaccurate in any way would be great, given the frequency of changes in social media platforms and accounts.[98] We believe that, by limiting the social media information required on Form ADV to an adviser's accounts on publicly available social media platforms where the adviser controls the content, the burden associated with reporting and updating that information should be limited. Because the social media environment is rapidly evolving, we think it will be useful to the Commission and investors to have current information on an adviser's use of social media on Form ADV. Additionally, this approach to updating social media reporting is consistent with our current approach to updating the other information required in Item 1 of Part 1A, including information on advisers' Web sites.

Several commenters questioned the utility for investors of social media reporting in Part 1A of Form ADV.[99] Commenters stated that investors who are interested in an adviser's social media presence will most likely look to the adviser's Web site or conduct an internet search to find the adviser's accounts on various social media platforms.[100] We recognize that this is most likely the case. However, we believe that having current information on an adviser's social media presence collected in one place on Form ADV may be helpful to investors. Two commenters stated that investors generally do not read Part 1A of Form ADV and recommended that we consider including social media reporting in Part 2A of Form ADV instead.[101] We recognize that investors may not look to Form ADV for information on an adviser's social media presence, but if they do, they will likely look to Item 1.I. of Part 1A and Section 1.I. of Schedule D because those are where we currently collect identifying information about an adviser, including information on an adviser's Web site or Web sites. In addition, a primary purpose of this item is to provide the Commission and our staff with information that may be used in our examination program and for other regulatory purposes. Accordingly, we believe it will be useful to the Commission to have information on an adviser's use of social media on Form ADV, and this placement in the form is an efficient and readily identifiable location for such information that appropriately serves our regulatory purposes.

We are amending Item 1.F. of Part 1A of Form ADV and Section 1.F. of Schedule D largely as proposed to expand the information provided about an adviser's offices other than its principal office and place of business. We currently require an adviser to provide contact and other information about its principal office and place of business, and, if an adviser conducts advisory activities from more than one location, about its largest five offices in terms of number of employees.[102] In order to help Commission examination staff learn more about an investment adviser's business and identify locations to conduct examinations, we are now requiring that advisers provide us with the total number of offices at which they conduct investment advisory business and provide information in Schedule D about their 25 largest offices in terms of number of employees.[103] As discussed in the Proposing Release, we chose 25 offices as the number to be reported because it will provide a complete listing of offices for the vast majority of investment advisers, and provide valuable information about the main business locations for the few advisers that have a very large number of offices.[104]

In addition to providing contact information for the 25 largest offices in terms of number of employees, we are amending Section 1.F. of Schedule D as proposed to require advisers to report each office's CRD branch number (if applicable) and the number of employees who perform advisory functions from each office, identify from a list of securities-related activities the business activities conducted from each office, and describe any other investment-related business conducted from each office. This information will help our staff assess risk, because it provides a better understanding of an investment adviser's operations and the nature of activities conducted in its top 25 offices. This information also will assist our staff in assessing offices that conduct a combination of activities.

Two commenters provided general support for our proposed enhanced reporting of adviser offices.[105] However, several commenters expressed concern that our approach would impose a significant burden on advisers with little or no benefit to either the Commission or investors.[106] Another commenter noted the substantial burden on advisers required to report additional offices, but acknowledged that burden would ease after the initial reporting period.[107] We recognize that the burden on some large advisers might be significant, especially in the initial reporting cycle when they are required to report their additional offices for the first time. However, we believe that the burden will decrease after the initial filing because in subsequent filings, advisers will only be reporting changes to their previously reported additional office information. Two commenters requested clarification on how often the additional office information should be updated.[108] One commenter felt that annual updating of office locations would not be unduly burdensome but more frequent than annual updates would be burdensome.[109] We agree and are requiring that Section 1.F. of Schedule D be updated as part of an adviser's annual updating amendment and not more frequently.[110]

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[96] SIFMA Letter.

[97] *Id.* The commenter also mentioned that a large advisory complex that includes multiple affiliated advisers may maintain an account on a social media platform on behalf of a parent company or another affiliate that is not designed to promote the reporting adviser's services and/or is targeted towards non-U.S. clients, perhaps in a language other than English.

[98] BlackRock Letter; Oppenheimer Letter; SIFMA Letter.

[99] Comment Letter of the Association for Corporate Growth (Aug. 11, 2015) ("ACG Letter"); ASG Letter; JAG Letter; Morningstar Letter; PCA Letter.

[100] ASG Letter; JAG Letter; Morningstar Letter; Oppenheimer Letter; PCA Letter.

[101] Morningstar Letter; PCA Letter. *See also* Comment Letter of Jeff J. Diercks (May 22, 2015) ("Diercks Letter").

[102] Form ADV, Part 1A, Item 1.F. and Section 1.F. of Schedule D.

[103] Amended Form ADV, Part 1A, Item 1.F. and Section 1.F. of Schedule D.

[104] *See* Proposing Release, *supra* footnote 3 at Section II.A.2. IAPD Investment Adviser Registered Representative State Data as of May 2, 2016 shows that a majority of SEC-registered advisers (approximately 98%) have 25 or fewer offices, but that many of the remaining two percent have many multiples of 25 offices.

[105] LPL Letter; NASAA Letter.

[106] ACG Letter; CFA Letter; Morningstar Letter; NRS Letter; NYSBA Committee Letter.

[107] Morningstar Letter.

One commenter expressed concern about our proposal's impact on smaller advisers and suggested that, as an alternative, we require advisers to (a) continue to provide information about their five largest additional offices, (b) report their total number of additional offices, and (c) report additional information only for their additional offices that meet a certain threshold of regulatory assets under management or that engage in certain enumerated practices of interest to the Commission.[111] We currently require advisers to track their additional offices based upon number of employees.[112] We understand that many advisers do not currently track their additional offices based upon the amount of regulatory assets under management attributable to each office and we believe that requiring them to do so would place an additional burden on advisers. For this reason, we are not changing our approach to additional office reporting.

One commenter requested that we simplify the reporting of information about additional offices for firms that are dually registered as investment advisers with the Commission and as broker-dealers with FINRA by allowing them to cross-reference to information submitted on their Uniform Branch Office Registration Form filed with FINRA.[113] We agree and we are updating the IAPD system so that by entering a branch's CRD number, the address, phone number, and facsimile number of all additional offices will automatically populate on Section 1.F. of Schedule D.

Item 1.J. of Form ADV currently requires each adviser to provide the name and contact information for the adviser's chief compliance officer. We proposed amending Item 1.J. to require an adviser to report whether its chief compliance officer is compensated or employed by any person other than the adviser (or a related person of the adviser) for providing chief compliance officer services to the adviser, and if so, to report the name and IRS Employer Identification Number (if any) of that other person. We are adopting the amendments to Item 1.J. largely as proposed, but in addition to related persons of the adviser, as discussed below, advisers will not be required to disclose the identity of the other person compensating or employing the chief compliance officer if that other person is an investment company registered under the Investment Company Act of 1940 advised by the adviser.[114]

As discussed in the Proposing Release, our examination staff has observed a wide spectrum of both quality and effectiveness of outsourced chief compliance officers and firms.[115] Identifying information for these third-party service providers, like others on Form ADV,[116] will allow us to identify all advisers relying on a particular service provider and could be used to improve our ability to assess potential risks.

Two commenters expressed general support for our proposal to identify if chief compliance officers are compensated or employed by other parties for providing chief compliance officer services,[117] and others expressed concern that the requirement would be unduly burdensome on advisers or that the information would be of little or no use to the Commission or investors.[118] We are not persuaded that this requirement would be unduly burdensome because the adviser should have or be able to easily obtain the necessary information, and we continue to believe that this information will be valuable for the reasons discussed above.

One commenter felt that our inquiry should focus not on the chief compliance officer's other employment and/or compensation, but rather on the details of the compliance program and resources committed to address compliance risk (*e.g.,* the chief compliance officer's education and professional designations, the number of other compliance employees, the estimated total hours spent on compliance, and the other duties of the chief compliance officer).[119] We agree with the commenter's suggestion that evaluating the overall effectiveness of an adviser's compliance program relies heavily on the facts and circumstances specific to that adviser.[120] However, we are adopting the amendments to Item 1.J. largely as proposed, because we believe that they meet our regulatory objective of identifying all advisers relying on particular service providers and may improve our ability to assess potential risks related to outsourced chief compliance officers and firms.

One commenter expressed concern that identifying outsourced chief compliance officers would invite additional scrutiny about an adviser's judgment in hiring externally versus internally.[121] While we understand the commenter's concerns, we continue to believe that identifying information for these third-party service providers, like others on Form ADV, will allow us to identify all advisers relying on a particular service provider and to address potential risks associated with that service provider.

Two commenters agreed with our proposal to specifically exclude situations where the chief compliance officer is paid or employed by a related person of the adviser.[122] Two other commenters recommended that we specify that a related person includes a registered investment company advised by the adviser.[123] These commenters noted that in many instances an individual may serve as the chief compliance officer of both an adviser and a registered investment company advised by the adviser and receive compensation from both the adviser and the registered investment company.[124] These commenters stated that requiring advisers to disclose these arrangements does not further our objective of assessing the use of third party service providers.[125] We agree and we have updated Item 1.J.(2) to exclude chief compliance officers compensated or employed by an investment company registered under the Investment Company Act of 1940 advised by the adviser.

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[108] ASG Letter; Morningstar Letter.

[109] ASG Letter.

[110] Amended Form ADV, General Instruction 4.

[111] NRS Letter.

[112] Form ADV, Part 1A, Item 1.F. and Section 1.F. of Schedule D.

[113] MMI Letter.

[114] Amended Form ADV, Part 1A, Item 1.J.

[115] Proposing Release, *supra* footnote 3 at Section II.A.2.

[116] For example, advisers provide the names and addresses of independent public accountants that perform audits or surprise examinations and that prepare internal control reports on Form ADV, Part 1A, Schedule D, Section 9.C.

[117] CFA Letter; NASAA Letter.

[118] ACG Letter; Comment Letter of L.A. Schnase (Jul. 2, 2015) ("Schnase Letter") (would be duplicative of already reported information, raises privacy concerns with the chief compliance officer's other clients, would become inaccurate or out-of-date quickly, and would miss the situation of firms hiring comprehensive external compliance support with an in-house chief compliance officer in name only). *See also* NRS Letter (adviser may not have access to this information).

[119] Morgan Letter.

[120] *Id.*

[121] Shearman Letter.

[122] MMI Letter; Morningstar Letter.

[123] Dechert Letter; IAA Letter.

[124] *Id.*

In the Proposing Release, we asked whether we should require information about an adviser's use of third-party compliance auditors. Two commenters supported such disclosure,[126] but several commenters felt the disclosure would either not be useful or lead to incorrect inferences about the decision to use, or not use, external compliance support.[127] Several commenters expressed concern that, due to the diversity of services provided by third-party compliance auditors, requiring an adviser to state whether or not it uses them would not be useful to the Commission from a risk monitoring perspective.[128] Commenters also expressed concern that requiring an adviser to report on its use of third-party compliance auditors could lead to incorrect inferences about the adviser's compliance program. For example, advisers hiring third-party compliance auditors might be viewed as signaling a compliance issue, whereas advisers not hiring them might be viewed as not sufficiently focused on compliance.[129] Two commenters expressed concern about confidentiality issues implicated by third-party compliance auditor reporting.[130] We are not requiring advisers to report information on Form ADV regarding third-party compliance auditors at this time.

We are amending Item 1.O. as proposed to require advisers with assets of $1 billion or more to report their assets within three ranges: (1) $1 billion to less than $10 billion; (2) $10 billion to less than $50 billion; and (3) $50 billion or more.[131] We added Item 1.O. in 2011 in connection with the Dodd-Frank Act's [132] requirements concerning certain incentive-based compensation arrangements.[133] Advisers are currently required to check a box to indicate if they have assets of $1 billion or more. Requiring advisers to report their assets within one of the three specified ranges will provide more precise data for use in Commission rulemaking arising from ongoing Dodd-Frank Act implementation.[134]

Two commenters expressed general support for our proposal to require advisers to report their own assets within specified ranges.[135] Two commenters did not believe that the information would be useful.[136] However, we continue to believe that requiring advisers to report their assets as described above will provide more accurate data for use in Commission rulemaking arising from ongoing Dodd-Frank Act implementation. Another commenter felt our proposal raised privacy issues for investors in an adviser where the adviser is privately held.[137] While we are sensitive to privacy concerns, we believe that we have narrowly tailored our proposal to address these concerns. We are only requiring that advisers with significant assets (at least $1 billion) report them and even then only within one of the three specified ranges. One commenter asked for clarification on the timing of the calculation of assets.[138] The item, as proposed and adopted today, specifies that an adviser should use the total assets shown on the adviser's balance sheet for the most recent fiscal year end.[139] We did not receive comments on the specific asset ranges.

b. Additional Information About Advisory Business

In addition to the amendments to Item 5 regarding separately managed accounts discussed above, we are adopting a number of other amendments to Item 5. Item 5 currently requires an adviser to provide approximate ranges for three data points concerning the adviser's business—the number of advisory clients, the types of advisory clients, and regulatory assets under management attributable to client types.[140] As proposed, we are amending these items to require an adviser to report the number of clients [141] and amount of regulatory assets under management attributable to each category of clients as of the date the adviser determines its regulatory assets under management.[142] As we discussed in the Proposing Release, replacing ranges with more precise information will provide more accurate information about investment advisers and will significantly enhance our ability to analyze data across investment advisers because providing actual numbers of clients and regulatory assets under management will allow us to see the scale and concentration of assets by client type.[143] It will also allow us to determine the regulatory assets under management attributable to separately managed accounts. We believe that the information needed for providing the number of clients and amount of regulatory assets under management by client type should be readily available to advisers because advisers are producing this data to answer the current iterations of these questions on Form ADV and advisers typically base their advisory fees on client assets under management.

We also are adding to Item 5 as proposed a requirement for advisers to report the number of clients for whom they provided advisory services but do not have regulatory assets under management in order to obtain a more complete understanding of each adviser's advisory business.[144] As we explained in the Proposing Release, this information will assist in our risk assessment process and increase the effectiveness of our examinations.[145]

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[125] *Id.*

[126] Comment Letter of Brown & Associates LLC (Aug. 10, 2015) ("Brown Letter"); NASAA Letter.

[127] ASG Letter; IAA Letter; MFA Letter; MMI Letter; NRS Letter; NYSBA Committee Letter; PEGCC Letter.

[128] IAA Letter; MFA Letter; NRS Letter; PEGCC Letter. *See also* ASG Letter (requested that we more clearly define "auditor"); JGAS Letter; MMI Letter.

[129] IAA Letter; NYSBA Committee Letter; PEGCC Letter.

[130] Anonymous Letter; MMI Letter (these relationships are often confidential, such as where law firms are involved).

[131] Amended Form ADV, Part 1A, Item 1.O.

[132] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[133] *See Rules Implementing Amendments to the Investment Advisers Act of 1940,* Investment Advisers Act Release No. 3221 (June 22, 2011) [76 FR 42950 (Jul. 19, 2011)] ("Implementing Release") at Section II.C.6; section 956 of the Dodd-Frank Act. We are also moving the instruction for how to report "assets" for the purpose of Item 1.O. from the Instructions for Part 1A to Form ADV to Item 1.O. in order to emphasize this instruction.

[134] *See, e.g.,* section 165(i) of the Dodd-Frank Act (requires the Commission and other financial regulators to establish methodologies for the conduct of stress tests by financial companies with consolidated assets of over $10 billion); *Incentive-based Compensation Arrangements,* Exchange Act Release No. 34–77776 (May 6, 2016) (identifies three categories of covered institutions based on average total consolidated assets, ranging from $1 billion to $250 billion) (re-proposal of Exchange Act Release No. 34–64140); *Incentive-Based Compensation Arrangements,* Exchange Act Release No. 34–64140 (Mar. 29, 2011) [76 FR 21170 (Apr. 14, 2011)].

[135] CFA Letter; PCA Letter.

[136] NRS Letter; NYSBA Committee Letter.

[137] Anonymous Letter.

[138] PEGCC Letter.

[139] Amended Form ADV, Part 1A, Item 1.O.

[140] Form ADV, Part 1A, Item 5.C.(1), Item 5.D.(1)–(2).

[141] Amended Form ADV, Part 1A, Item 5.D.(1)–(2). Advisers with fewer than five clients in a particular category (other than investment companies, business development companies and other pooled investment vehicles) may check Item 5.D.(2) indicating that fact rather than report the actual number of clients in the particular category in Item 5.D.(1).

[142] Amended Form ADV, Part 1A, Item 5.D.(3). The categories of clients are the same as those in Item 5.D. of the current Form ADV, except that we are adding "sovereign wealth funds and foreign official institutions" as a client category, and specifying that state or municipal government entities include government pension plans, and that government pension plans should not be counted as pension and profit sharing plans.

[143] Proposing Release, *supra* footnote 3 at Section II.A.2.

Some commenters were generally supportive of our proposal to replace ranges with more precise information.[146] Several commenters stated that advisers would need to update computer systems to obtain this data, and raised concerns about the increased burden that our proposal would place on advisers.[147] One commenter felt that removing an adviser's ability to rely on estimates of the amount of regulatory assets under management would increase the time required to prepare Item 5.D.[148] We are not convinced that the burden placed on advisers by the requirement to report precise information will be significant. We continue to believe that the required information should be readily available to advisers because advisers are producing this data to answer the current iterations of these questions on Form ADV and advisers typically base their advisory fees on client assets under management.

Some commenters suggested that our proposal to replace ranges with more precise information would heighten the risk of inaccurate reporting on Form ADV.[149] Commenters suggested that instead of requiring more precise information, we require advisers to report only an approximate number of clients and regulatory assets under management so as not to penalize advisers for "minor or inadvertent inaccuracies" [150] and one commenter suggested using narrower ranges.[151] Our goal in collecting more precise information is not to penalize advisers for minor inaccuracies but to enhance our ability to analyze data across investment advisers and allow us to see the scale and concentration of assets by client type. We collect numerical data throughout Form ADV, and we believe that advisers have access to the information required to accurately complete Item 5.

One commenter expressed skepticism that the amendments would provide new, meaningful information to investors.[152] However, we believe that investors potentially will benefit from having a more complete understanding of an investment adviser's business. In addition, we believe that investors will indirectly benefit from our enhanced ability to analyze data across investment advisers, including the scale and concentration of assets by client type.

One commenter expressed concern that the reporting of precise numbers might reveal confidential client relationships or the amount of regulatory assets under management attributable to specific clients.[153] We are sensitive to these privacy concerns, and, as noted above, we are revising Form ADV, Part 1A, Item 5.D. to allow advisers with fewer than five clients in a particular category (other than investment companies, business development companies and other pooled investment vehicles) to check Item 5.D.(2) indicating that fact rather than report the actual number of clients in the particular category in Item 5.D.(1).[154]

Several commenters requested clarification in situations where a client fits into more than one client category.[155] Specifically, two commenters requested that the Commission clarify whether an adviser that has contracts with other advisers to sub-advise registered investment companies, business development companies or pooled investment vehicles should categorize those clients as either (1) "other investment advisers" because other investment advisers hold the contracts, or as (2) "investment companies," "business development companies," or "pooled investment vehicles," as applicable, because those entities hold the regulatory assets under management.[156] We are updating the instructions to Item 5.D. to state that, to the extent that the adviser advises a registered investment company, business development company, or pooled investment vehicle, the adviser should report those sub-advised assets in categories (d), (e), or (f) as applicable.[157] We also are amending the instructions in the text preceding Item 5.D., in response to a comment that we received,[158] to state that if a client fits into more than one category, then the adviser should select the category that most accurately represents the client in order to avoid double counting clients and assets.[159]

Some commenters requested more specific definitions for the categories of clients.[160] However, most of the categories have not changed from current Form ADV and, based upon our experience with Form ADV, we believe that they are sufficiently clear. At the suggestion of two commenters,[161] we are moving the category labeled "Corporations or other businesses not listed above" down in the table so that it appears just above the category labeled "Other." [162]

We are adopting, largely as proposed, several targeted additions to Item 5 and Section 5 of Schedule D to inform our risk-based exam program and other risk monitoring initiatives. An adviser that elects to report client assets in Part 2A of Form ADV differently from the regulatory assets under management it reports in Part 1A of Form ADV is now required to check a box noting that election.[163] As discussed in the Proposing Release, this information will allow our examination staff to review across advisers the extent to which advisers report assets under management in Part 2A that differ from the regulatory assets under management reported in Part 1A of Form ADV.[164] Having this information will allow our staff to better understand the situations in which the calculations differ, and assist us in analyzing whether those differences require a regulatory response.

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[144] Amended Form ADV, Part 1A, Item 5.C.(1). An example of a situation where an adviser provides investment advice but does not have regulatory assets under management is a nondiscretionary account or a one-time financial plan, depending on the facts and circumstances.

[145] Proposing Release, *supra* footnote 3 at Section II.A.2.

[146] NRS Letter; PCA Letter; CFA Letter (generally supportive but questions the usefulness of actual numbers rather than ranges); NASAA Letter (supports reporting the number of clients for whom an adviser provides advisory services but does not have regulatory assets under management).

[147] ASG Letter; MMI Letter. *See* LPL Letter.

[148] ASG Letter.

[149] ASG Letter; LPL Letter; MMI Letter.

[150] LPL Letter. *See also* IAA Letter.

[151] MMI Letter.

[152] ACG Letter.

[153] Anonymous Letter.

[154] Amended Form ADV, Part 1A, Item 5.D.(1)–(2).

[155] Anonymous Letter; ASG Letter; IAA Letter; SIFMA Letter.

[156] ASG Letter; IAA Letter.

[157] Amended Form ADV, Part 1A, Item 5.D.

[158] SIFMA Letter.

[159] Amended Form ADV, Part 1A, Item 5.D.

[160] IAA Letter (Commission should clarify whether a "sovereign wealth fund and foreign official institution" includes the account of any government or quasi-government entity). Morningstar Letter (Commission should add definitions for categories, including "other," and provide a list of common custodian account types and how they map to the client categories).

[161] IAA Letter; SIFMA Letter.

[162] Amended Form ADV, Part 1A, Item 5.D.

[163] Amended Form ADV, Part 1A, Item 5.J.(2). Form ADV, Part 2A, Item 4.E. requires an investment adviser to disclose the amount of client assets it manages on a discretionary basis and on a non-discretionary basis. The method used by an adviser to compute the amount of client assets it manages can be different from the method used to compute regulatory assets under management required for Item 5.F. in Part 1A. As discussed in the proposing release for Part 2, the regulatory assets under management calculation for Part 1A is designed for a particular purpose (*i.e.*, for making a bright line determination about whether an adviser should register with the Commission or with the states) and permitting a different calculation for Part 2 disclosure may be appropriate to enable advisers to make disclosure that is more indicative to clients about the nature of their business. *See Amendments to Form ADV*, Investment Advisers Act Release No. 2711 (Mar. 3, 2008) [73 FR 13958 (Mar. 14, 2008)].

[164] Proposing Release, *supra* footnote 3 at Section II.A.2.

One commenter asserted that this information would not be meaningful to investors.[165] Another commenter noted that advisers may report additional assets in Part 2A of Form ADV, rather than calculate regulatory assets under management differently than they do in Part 1A of Form ADV.[166] We continue to believe that Item 5.J.(2) will provide the staff with helpful information regarding these calculations.

In addition, largely as proposed, we are adding a question asking the approximate amount of an adviser's total regulatory assets under management that is attributable to clients that are non-United States persons[167] to complement the current requirement that each adviser report the percentage of its clients that are non-United States persons, which, based on our experience, is not always a reliable indicator of an adviser's relationships with non-U.S. clients.[168] As noted in the Proposing Release, our examination staff can use this information to better understand the extent of investment advice provided to non-U.S. clients which will assist in our risk assessment process.[169] In our proposal, we used the term "non-U.S. client" and commenters sought clarification of the definition of "non-U.S. client."[170] In response, the amendments that we are adopting today use the term "non-United States person" in Item 5.F.(3). The Glossary to Form ADV provides that "United States person" has the same meaning as in rule 203(m)–1 under the Advisers Act, which includes any natural person that is resident in the United States.

Section 5.G.(3) of Schedule D currently requires advisers to report the SEC File Number for registered investment companies and business development companies that they advise. Largely as proposed, we are adding to Section 5.G.(3) a requirement that advisers report the regulatory assets under management of all parallel managed accounts related to a registered investment company (or series thereof) or business development company that they advise.[171] As described in the Proposing Release, this information will permit our staff to assess the accounts and consider how an adviser manages conflicts of interest between parallel managed accounts and registered investment companies or business development companies advised by the adviser.[172] This information also will show the extent of any shift in assets between parallel managed accounts and registered investment companies or business development companies.

Some commenters questioned the usefulness of collecting information on parallel managed accounts[173] or thought that disclosures about parallel managed accounts would not produce meaningful results or could be misleading.[174] We recognize that there may be different reasons for assets to shift between parallel managed accounts and registered investment companies or business development companies, but that does not make the additional information less useful to the staff in considering how advisers manage conflicts of interest and assessing the extent of any shift in assets for risk monitoring purposes.

Some commenters noted that registered investment companies often have multiple series, each with its own portfolio manager, investment strategy, and holdings; and that the concept of a parallel managed account could only be applied in the registered investment company context on a series-by-series basis.[175] In response, we have updated Section 5.G.(3) to clarify that parallel managed accounts related to a registered investment company (or a series thereof) should be reported.

One commenter felt that advisers would have difficulty interpreting the requirement that a parallel managed account pursue "substantially the same investment objective and strategy" as the relevant investment company or business development company.[176] Advisers should use their best judgment and make a good faith determination as to whether the investment objectives and strategies in question are "substantially the same." We note that many private fund advisers already make this determination when filling out Form PF.[177]

One commenter asked for confirmation that the value of derivatives held in a parallel managed account should be calculated using the market value of the derivatives rather than the gross notional value, if that is how the value of the account is reported to the account holder.[178] We agree that market value should be used in such a case.[179]

Finally, we are amending Item 5, largely as proposed, to obtain additional information concerning wrap fee programs.[180] Item 5.I. of Part 1A currently requires an adviser to indicate whether it serves as a sponsor of or portfolio manager for a wrap fee program. We are amending Item 5.I. to ask whether the adviser participates in a wrap fee program, and if so, the total amount of regulatory assets under management attributable to acting as a sponsor to or portfolio manager for a wrap fee program.[181] One commenter noted that many advisers act as both the sponsor of and a portfolio manager for the same wrap fee program and that this could cause those advisers to double count their regulatory assets under management attributable to wrap fee programs in Item 5.I.[182] We agree and have added a question to Item 5.I. that asks for the total amount of regulatory assets under management attributable to the adviser acting as both sponsor to and portfolio manager for the same wrap fee program. To prevent advisers from double-counting assets, we added an instruction that assets reported in this new category should not be reported elsewhere in Item 5.I.(2).

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[165] ACG Letter.

[166] PCA Letter (stating that when advisers report different client assets in Part 2A than regulatory assets under management in Part 1A of Form ADV, it is frequently due to additional assets being included in the Part 2A calculation, such as non-discretionary assets that are under "advisement," rather than a different method of calculating assets under management).

[167] Amended Form ADV, Part 1A, Item 5.F.(3).

[168] Form ADV, Part 1A, Item 5.C.(2). For example, an adviser may report a significant percentage of clients that are non-United States persons, but the regulatory assets under management attributable to those clients is a small percentage of the adviser's regulatory assets under management.

[169] Proposing Release, *supra* footnote 3 at Section II.A.2.

[170] Oppenheimer Letter; SIFMA Letter.

[171] Amended Form ADV, Part 1A, Section 5.G.(3) of Schedule D. The Glossary to Amended Form ADV includes "parallel managed account," which is defined as: "With respect to any registered investment company or series thereof or business development company, a parallel managed account is any managed account or other pool of assets that you advise and that pursues substantially the same investment objective and strategy and invests side by side in substantially the same positions as the identified investment company or series thereof or business development company that you advise."

[172] Proposing Release, *supra* footnote 3 at Section II.A.2.

[173] BlackRock Letter (suggesting that asking during examinations for an adviser's policies related to fair treatment of all accounts, and testing of compliance with those policies, would better achieve the objective); IAA Letter; Comment Letter of Small Business Investor Alliance (Aug. 11, 2015) ("SBIA Letter") (opining that the proposal adds unnecessary reporting for advisers of business development companies and is duplicative of Form N–2). We believe the information to be collected in Section 5.G.(3) is different from the information collected on Form N–2 regarding closed-end funds and business development companies because the information collected on Form N–2 regarding management of other accounts focuses on individual portfolio managers, while the information collected on Form ADV is reported at the adviser level.

[174] Anonymous Letter (stating there are many reasons assets could shift between parallel managed accounts and registered investment companies or business development companies); BlackRock Letter.

[175] IAA Letter; Oppenheimer Letter; SIFMA Letter.

[176] PCA Letter.

[177] The definition of "parallel managed account," *supra* footnote 171, is consistent with the Form PF definition of "parallel managed account." Form PF, Glossary of Terms.

[178] IAA Letter.

[179] This approach is consistent with the staff's view on how the value of a parallel managed account should be calculated on Form PF. *See* Form PF, Frequently Asked Questions. The staff's response to Question 11 on reporting value states that "When calculating the value of a parallel managed account for purposes of either determining whether it is a dependent parallel managed account that is aggregated with the reporting fund or reporting its value in Question 11, you should use the market value of the derivatives held in the parallel managed account, instead of the gross notional value, if that is how the value of the account is reported to the account holder."

[180] The Glossary to Form ADV defines a wrap fee program as "[a]ny advisory program under which a specified fee or fees not based directly upon transactions in a *client's* account is charged for investment advisory services (which may include portfolio management or advice concerning the selection of other investment advisers) and the execution of *client* transactions." We are not amending this definition.

Section 5.I.(2) of Schedule D currently requires an adviser to list the name and sponsor of each wrap fee program for which the adviser serves as portfolio manager. We are amending Section 5.I.(2), as proposed, to add questions that require an adviser to provide any SEC File Number and CRD Number for sponsors to those wrap fee programs.[183] As discussed in the Proposing Release, this information will help us better understand a particular adviser's business and assist in our risk assessment and examination process by making it easier for our staff to identify the extent to which the firm acts as sponsor or portfolio manager of wrap fee programs and collect information across investment advisers involved in a particular wrap fee program.[184]

One commenter was generally supportive of our proposed reporting on wrap fee programs, but questioned its usefulness to investors and market participants.[185] As discussed above, our enhanced wrap fee reporting is designed to assist our staff in its risk assessment and examination process. Three commenters requested further clarification regarding the existing definition of a wrap fee program.[186] We are not changing or clarifying the existing definition of a "wrap fee program" that is included in Form ADV because, based on our experience with the Form, we believe it has been sufficiently clear.

c. Additional Information About Financial Industry Affiliations and Private Fund Reporting

Part 1A, Section 7.A. of Schedule D requires information on an adviser's financial industry affiliations and Section 7.B.(1) of Schedule D requires information on private funds managed by the adviser. We are adopting as proposed amendments to Sections 7.A. and 7.B.(1) of Schedule D that require an adviser to provide identifying numbers (*i.e.*, Public Company Accounting Oversight Board ("PCAOB")-assigned numbers [187] and CIK Numbers [188]) in response to two questions to allow us to better compare information across data sets and understand the relationships of advisers to other financial service providers.

Two commenters were concerned that, by requiring an adviser to report the PCAOB-assigned number of its auditing firm (if applicable), we are suggesting that using a PCAOB-registered auditing firm is required by the Commission.[189] This is not our intent. An auditing firm performing a surprise examination is not required to be registered with the PCAOB unless the adviser or its related person is serving as qualified custodian.[190]

In addition, we are adding a question to Section 7.B.(1) of Schedule D to require an adviser to a private fund that qualifies for the exclusion from the definition of investment company under section 3(c)(1) of the Investment Company Act of 1940 (a "3(c)(1) fund") to report whether it limits sales of the fund to qualified clients, as defined in rule 205–3 under the Advisers Act.[191] As proposed, the question would have required an adviser to report, for every private fund that it advises (including any private fund that qualifies for the exclusion from the definition of "investment company" under section 3(c)(7) of the Investment Company Act of 1940 ("3(c)(7) fund"), the approximate percentage of the private fund beneficially owned (in the aggregate) by qualified clients.[192] One commenter supported the rationale for our proposal; [193] however other commenters questioned the value of the question and were concerned about situations where the qualified client status of an investor is not known, or does not need to be determined.[194] We continue to believe that this information will give us a better sense of the financial sophistication and nature of investors in private funds, but in response to comments, we are making two changes from our proposal.

First, we are limiting the question to 3(c)(1) funds because each investor in a 3(c)(7) fund is required to meet the higher "qualified purchaser" standard.[195] Second, we are revising the question to require a simple yes or no response as to whether the adviser limits sales of a fund to qualified clients instead of requiring advisers to report the percentage of ownership of the fund by qualified clients. Commenters noted that many advisers that are not registered with the Commission (*e.g.*, exempt reporting advisers [196]) are not required to determine whether the fund's investors are qualified clients.[197] These advisers may simply respond "No" to the revised question. Other commenters asked us to clarify whether advisers must re-certify the qualified client status of their investors annually.[198] As long as an investor met the definition of a "qualified client" when it entered into the advisory contract with the adviser, then the investor is considered a "qualified client" even if it no longer meets the dollar amount thresholds of the rule. This is consistent with our existing approach to the definition of qualified client.[199]

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[181] Amended Form ADV, Part 1A, Item 5.I.

[182] MMI Letter.

[183] Amended Form ADV, Part 1A, Section 5.I.(2) of Schedule D.

[184] Proposing Release, *supra* footnote 3 at Section II.A.2.

[185] CFA Letter.

[186] ASG Letter (asking whether an adviser will be deemed to participate in a wrap fee program if the adviser negotiates an asset-based fee with a broker and pays that fee rather than having the client pay that fee); PCA Letter (asking whether an adviser will be deemed to "participate" in a wrap fee program as a result of placing client funds (or recommending that clients place non-discretionary funds) in one or more programs sponsored by unaffiliated third parties, but in which the adviser does not serve as the sponsor or a portfolio manager). *See also* NRS Letter (suggesting that we require wrap fee program sponsors to report the combined regulatory assets under management for themselves and any independent portfolio managers in their program).

[187] Amended Form ADV, Part 1A, Section 7.B.(1) of Schedule D, Question 23(e).

[188] Amended Form ADV, Part 1A, Section 7.A of Schedule D, Question 4(b).

[189] Shearman Letter. *See* Comment Letter of American Institute of Certified Public Accountants, Financial Reporting Executive Committee (Aug. 17, 2015) ("AICPA Letter").

[190] Rules 206(4)–2(a)(4) and 206(4)–2(a)(6)(i).

[191] Amended Form ADV, Part 1A, Section 7.B.(1) of Schedule D, Question 15(b). Current Question 15 will become Question 15(a).

[192] Proposed Form ADV, Part 1A, Section 7.B.(1) of Schedule D, Question 15(b).

[193] CFA Letter.

[194] ACG Letter; Anonymous Letter; SBIA Letter.

[195] "Qualified purchaser" is defined in Section 2(a)(51) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(51)).

[196] An exempt reporting adviser is an investment adviser that qualifies for the exemption from registration under section 203(l) of the Advisers Act because it is an adviser solely to one or more venture capital funds, or under rule 203(m)–1 under the Advisers Act because it is an adviser solely to private funds and has assets under management in the United States of less than $150 million. *See* Form ADV, Glossary.

[197] ACG Letter; SBIA Letter. *See also* Anonymous Letter. Section 205(a) of the Advisers Act only applies to advisers who are registered or required to be registered with the Commission and generally restricts advisers from entering into, extending, renewing, or performing any advisory contract that provides for performance-based compensation. Rule 205–3 permits advisers to charge performance-based compensation to "qualified clients," as defined in the rule. Advisers who are registered or required to be registered with the Commission are otherwise prohibited from charging performance-based compensation.

[198] JGAS Letter; SBIA Letter. *See also* PCA Letter.

3. Umbrella Registration

We are adopting, as proposed, amendments to Form ADV that codify umbrella registration for certain advisers to private funds. We are adopting the amendments today because we believe that umbrella registration should be made available to those private fund advisers that are registered with us and operate a single advisory business through multiple legal entities. Umbrella registration is not mandatory, but we believe it will simplify the registration process for these advisers, and provide additional and more consistent data about, and create a clearer picture of, groups of private fund advisers that operate a single advisory business through multiple legal entities. The amendments also will allow for greater comparability across private fund advisers.

As we discussed in the Proposing Release, the Dodd-Frank Act repealed the private adviser exemption that used to be in section 203(b)(3) of the Advisers Act.[200] As a result, many previously unregistered advisers to private funds,[201] including hedge funds and private equity funds, were required to register under the Advisers Act. Today, about 4,469 registered investment advisers provide advice on approximately $10.5 trillion in assets to approximately 30,896 private funds clients.[202]

For a variety of tax, legal and regulatory reasons, advisers to private funds may be organized as a group of related advisers that are separate legal entities but effectively operate as—and appear to investors and regulators to be—a single advisory business. Although these separate legal entities effectively operate as a single advisory business,[203] Form ADV was designed to accommodate the registration request of an adviser structured as a single legal entity. As a result, private fund advisers that operated as a single advisory business but were organized as separate legal entities may have had to file multiple registration forms, even though the registration effectively was for the same advisory business. Multiple Form ADVs for a single advisory business may distort the data we collect on Form ADV and use in our regulatory program, be less efficient and more costly for advisers, and may be confusing to the public researching an adviser on our Web site.

Our staff provided guidance to private fund advisers before the compliance date of the Dodd-Frank Act private fund adviser registration requirements designed to address concerns raised by advisers.[204] The guidance provided conditions under which the staff believed one adviser (the "filing adviser") could file a single Form ADV on behalf of itself and other advisers that were controlled by or under common control with the filing adviser (each, a "relying adviser"), provided that they conducted a single advisory business (collectively an "umbrella registration").

We believe that most advisers that can rely on umbrella registration are doing so, with approximately 743 filing advisers and approximately 2,587 relying advisers filing umbrella registrations.[205] However, the method outlined in the staff guidance for filing an umbrella registration was limited by the fact that the form was designed for a single legal entity. This created confusion for filers and the public. It also complicated our staff's data collection and analysis on umbrella registrants.[206] Today's amendments are designed to ameliorate these issues.

We are adopting, as proposed, amendments to Form ADV's General Instructions that establish conditions for an adviser to assess whether umbrella registration is available. The conditions we are adopting today are the same as the conditions set forth in the staff's guidance that many investment advisers have relied on since 2012 (except that the staff's guidance also included disclosure conditions for Form ADV, the substance of which is covered elsewhere in this Release).[207] The conditions are as follows:

1. The filing adviser and each relying adviser advise only private funds and clients in separately managed accounts that are qualified clients (as defined in rule 205–3 under the Advisers Act) and are otherwise eligible to invest in the private funds advised by the filing adviser or a relying adviser and whose accounts pursue investment objectives and strategies that are substantially similar or otherwise related to those private funds;
2. The filing adviser has its principal office and place of business in the United States and, therefore, all of the substantive provisions of the Advisers Act and the rules thereunder apply to the filing adviser's and each relying adviser's dealings with each of its clients, regardless of whether any client or the filing adviser or relying adviser providing the advice is a United States person;[208]
3. Each relying adviser, its employees and the persons acting on its behalf are subject to the filing adviser's supervision and control and, therefore, each relying adviser, its employees and

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[199] *See Investment Adviser Performance Compensation,* Investment Advisers Act Release No. 3372 (Feb. 15, 2012) [77 FR 10358 (Feb. 22, 2012)].

[200] Section 403 of the Dodd-Frank Act. Section 203(b)(3) of the Advisers Act (the "private adviser exemption") previously exempted any investment adviser from registration if the investment adviser (i) had fewer than 15 clients in the preceding 12 months, (ii) did not hold itself out to the public as an investment adviser and (iii) did not act as an investment adviser to a registered investment company or a company that elected to be a business development company.

[201] Section 202(a)(29) of the Advisers Act defines the term "private fund" as "an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3), but for section 3(c)(1) or 3(c)(7) of that Act."

[202] Based on IARD system data as of May 16, 2016.

[203] We treat as a single adviser two or more affiliated advisers that are separate legal entities but are operationally integrated, which could result in a requirement for one or both advisers to register. *See Exemptions for Advisers to Venture Capital Funds, Private Fund Advisers With Less Than $150 Million in Assets Under Management, and Foreign Private Advisers,* Investment Advisers Act Release No. 3222 (June 22, 2011) [76 FR 39646 (Jul. 6, 2011)] ("Exemptions Release"). *See also In the Matter of TL Ventures Inc.*, Investment Advisers Act Release No. 3859 (June 20, 2014) (settled action).

[204] *See* 2012 ABA Letter, *supra* footnote 5. The Division of Investment Management previously provided no-action relief to enable a special purpose vehicle ("SPV") that acts as a private fund's general partner or managing member to essentially rely upon its parent adviser's registration with the Commission rather than separately register. *See* American Bar Association Subcommittee on Private Investment Entities, SEC Staff Letter (Dec. 8, 2005), *available at http://www.sec.gov/divisions/investment/noaction/aba120805.htm* ("2005 ABA Letter") at Question G1.

[205] Based on IARD system data as of May 16, 2016.

[206] Under the guidance provided by the staff, for example, umbrella registration was appropriate where a relying adviser was not prohibited from registering with the Commission by section 203A of the Advisers Act. *See* 2012 ABA Letter, *supra* footnote 5. However, a relying adviser did not have a way to answer Item 2 regarding the basis on which it was eligible for SEC registration. In addition, relying advisers often had to list owners and executive officers in a confusing manner in Schedules A and B which were not designed to accommodate multiple advisers and did not always provide the Commission staff with useful information on the owners of each relying adviser. Also, the filing adviser disclosed its reliance on the 2012 ABA Letter in the Miscellaneous Section of Schedule D.

[207] *See* 2012 ABA Letter, *supra* footnote 5 at Question 4.

[208] The Glossary to Form ADV provides that "United States person" has the same meaning as in rule 203(m)–1 under the Advisers Act, which includes any natural person that is resident in the United States.

the persons acting on its behalf are "persons associated with" the filing adviser (as defined in section 202(a)(17) of the Advisers Act);

4. The advisory activities of each relying adviser are subject to the Advisers Act and the rules thereunder, and each relying adviser is subject to examination by the Commission; and

5. The filing adviser and each relying adviser operate under a single code of ethics adopted in accordance with rule 204A–1 under the Advisers Act and a single set of written policies and procedures adopted and implemented in accordance with rule 206(4)–(7) under the Advisers Act and administered by a single chief compliance officer in accordance with that rule.[209]

The conditions are designed to limit eligibility for umbrella registration to groups of private fund advisers that operate as a single advisory business. For purposes of umbrella registration, we consider the following factors as indicia of a single advisory business: Commonality of advisory services and clients; a consistent application of the Advisers Act and the rules thereunder to all advisers in the business; and a unified compliance program. The conditions that we are adopting today are designed to demonstrate these factors. Condition 1 limits eligibility for umbrella registration to private fund advisers with a commonality of advisory services and clients. Conditions 2 and 4 are designed to provide assurance that our staff has access to and can readily examine the filing and relying advisers and that the Advisers Act and the rules thereunder fully apply to all advisers under the umbrella registration and clients of those advisers. Conditions 3 and 5 are designed to provide assurance that the filing and relying advisers are subject to a unified compliance program. Based on our experience, we believe that the conditions, when taken together, are a strong indication of the existence of a single private fund advisory business operating through the use of multiple legal entities.

In addition, we are amending the General Instructions as proposed to provide advisers using umbrella registration directions on completing Form ADV for the filing adviser and each relying adviser, including details for filing umbrella registration requests and the timing of filings and amendments in connection with an umbrella registration.[210] To satisfy the requirements of Form ADV while using umbrella registration, the filing adviser is required to file, and update as required, a single Form ADV (Parts 1 and 2) that relates to, and includes all information concerning, the filing adviser and each relying adviser, and must include this same information in any other reports or filings it must make under the Advisers Act or the rules thereunder (*e.g.*, Form PF). The revisions to the form's Instructions and Form ADV further specify those questions that should be answered solely with respect to the filing adviser and those that require the filing adviser to answer on behalf of itself and its relying adviser(s).[211] Additionally, we are amending the Glossary as proposed to add the following three terms: (i) "filing adviser;"[212] (ii) "relying adviser;"[213] and (iii) "umbrella registration."[214]

We also are adopting as proposed a new schedule to Part 1A—Schedule R—that must be filed for each relying adviser.[215] Schedule R requires identifying information, basis for SEC registration, and ownership information about each relying adviser, some of which was already filed by an adviser relying on the staff guidance.[216] This new schedule consolidates in one location information for each relying adviser and addresses the problem the staff faced in its guidance that resulted in information regarding relying advisers being submitted in response to a number of different items on the Form, in ways not consistent across advisers, due to the fact that Form ADV was not designed to accommodate umbrella registration.[217] We believe that certain information that we are requiring (such as mailing address and basis for registration) is the same for nearly all relying advisers, and the filing adviser can check a box indicating that the mailing address of the relying advisers is the same as that of the filing adviser. Finally, we are adding, as proposed, a new question to Schedule D that requires advisers to identify the filing advisers and relying advisers that manage or sponsor private funds reported on Form ADV.[218] This information will allow us to identify the specific adviser managing the private fund reported on Form ADV if it is part of an umbrella registration. We believe that this information will help us better understand the management of private funds, will provide information to contact relying advisers, and will help us better understand the relationship between relying advisers and filing advisers.

We received multiple comment letters regarding our proposal to codify umbrella registration, the vast majority of which expressed support for umbrella registration.[219] Several commenters also agreed that umbrella registration should not be mandatory.[220] However, several commenters urged the Commission to expand the eligibility for umbrella registration to additional advisers including non-U.S. filing advisers, exempt reporting advisers, advisers to other types of clients, and advisers not independently eligible to register with the Commission.[221]

Many commenters encouraged us to permit umbrella registration for non-

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[209] The code of ethics and written policies and procedures must be administered as if the filing adviser and each relying adviser are part of a single entity, although they may take into account, for example, that a relying adviser operating in a different jurisdiction may have obligations that differ from the filing adviser or another relying adviser.

[210] *See* Form ADV, General Instruction 5.

[211] *See, e.g.*, statements added to Form ADV, Instructions and Part 1A, Items 1, 2, 3, 7, 10 and 11.

[212] "Filing Adviser" means: "An investment adviser eligible to register with the SEC that files (and amends) a single *umbrella registration* on behalf of itself and each of its *relying advisers*." See Form ADV, Glossary.

[213] "Relying Adviser" means: "An investment adviser eligible to register with the SEC that relies on a *filing adviser* to file (and amend) a single *umbrella registration* on its behalf." *See* Form ADV, Glossary.

[214] "Umbrella Registration" means: "A single registration by a *filing adviser* and one or more *relying advisers* who collectively conduct a single advisory business and that meet the conditions set forth in General Instruction 5." *See* Form ADV, Glossary.

[215] Advisers that choose to file an umbrella registration are directed by Item 1.B. to complete a new Schedule R for each relying adviser. Form ADV, Part 1A, Item 1.B.(2).

[216] Schedule R requires the following information for each relying adviser: Identifying information (Section 1); basis for SEC registration (Section 2); form of organization (Section 3) and control persons (Section 4). For basis for SEC registration (Section 2), we did not include categories that would make the relying adviser ineligible for umbrella registration, such as serving as an adviser to a registered investment company.

[217] Under the staff's guidance in the 2012 ABA Letter, an adviser reported in its Form ADV (Miscellaneous Section of Schedule D) that it and its relying advisers were together filing a single Form ADV in reliance on the position expressed in the letter and identified each relying adviser by completing a separate Section 1.B., Schedule D, of Form ADV for each relying adviser and identified it as such by including the notation "(relying adviser)." *See* 2012 ABA Letter, *supra* footnote 5 at Question 4.

[218] Form ADV, Part 1A, Section 7.B.(1) of Schedule D, Question 3(b).

[219] *See, e.g.*, ABA Committee Letter; ACG Letter; AIMA Letter; ASG Letter; BlackRock Letter; CFA Letter; Dechert Letter; MFA Letter; NASAA Letter; NRS Letter; NYSBA Committee Letter; PCA Letter; PEGCC Letter; SBIA Letter; Schulte Letter; Shearman Letter; SIFMA Letter.

[220] ABA Committee Letter; ASG Letter; BlackRock Letter; Dechert Letter.

[221] One commenter suggested that advisers that can, but do not elect to, file an umbrella registration be required to note that on Form ADV. CFA Letter.

U.S. filing advisers.[222] However, as we previously have expressed, we remain concerned that, absent Condition 2 (which requires that the filing adviser have its principal place of business in the United States), a group of related advisers based inside and outside of the United States could designate a non-U.S. adviser as a filing adviser, and could assert, based on the theory of operating a single advisory business, that the Advisers Act's substantive provisions generally would not apply to the U.S.-based relying advisers' dealings with their non-U.S. clients.[223] Many commenters acknowledged this concern.[224] Some commenters suggested that we address the concern by requiring that advisers indicate on their umbrella registration that they will follow applicable law.[225] We believe that Condition 2 eliminates the difficult determinations of the Advisers Act's application to these advisory relationships. The amendments we are adopting today do not change the Commission's statements with respect to the cross-border application of the Advisers Act.[226]

Two commenters suggested permitting umbrella registration for an organization where all of the advisers have their principal office and place of business outside of the United States.[227] However, umbrella registration is intended to apply only where our staff has access to and can readily examine the filing and relying advisers and where the Advisers Act and the rules thereunder fully apply to all advisers (and clients) under the umbrella registration.[228] This would not be the case for a group of non-U.S. advisers.

Several commenters[229] argued that we should expand the concept of umbrella registration by registered advisers to include "umbrella reporting" by exempt reporting advisers. Many of these commenters stated, and we acknowledge, that allowing exempt reporting advisers that operate a single advisory business through multiple legal entities to file an "umbrella report" would provide many of the same benefits as umbrella registration.[230] However, we are not expanding the concept of umbrella registration to include "umbrella reporting" by exempt reporting advisers at this time. Some of the conditions required for umbrella registration reflect certain requirements that apply only to registered advisers.[231] Different conditions might be more appropriate for ensuring that a group of exempt reporting advisers is operating a single advisory business and therefore should be able to take advantage of "umbrella reporting."

Certain commenters questioned the status of a set of Frequently Asked Questions [232] that permits certain exempt reporting advisers to file a single Form ADV on behalf of multiple special purpose entities.[233] The views of the staff as expressed in these Frequently Asked Questions are not withdrawn as a result of today's amendments to Form ADV.

Two commenters disagreed with Condition 5's requirement that the filing adviser and each relying adviser operate under a single code of ethics adopted in accordance with rule 204A–1 under the Advisers Act and a single set of written policies and procedures adopted and implemented in accordance with rule 206(4)–(7) under the Advisers Act and administered by a single chief compliance officer in accordance with that rule.[234] One commenter argued that Condition 5 was too restrictive and suggested that we allow groups of related advisers with "substantially similar" codes of ethics and sets of policies and procedures administered by several chief compliance officers operating under a "common compliance regime" to file an umbrella registration.[235] Based on our experience with private fund advisers that operate a single private fund advisory business through multiple legal entities, we believe that they commonly have a unified compliance program which is characterized by a single code of ethics and a single set of compliance policies and procedures administered by a single chief compliance officer. Because we believe that the existence of a unified compliance program that meets the requirements of Condition 5 is a meaningful indicia of a single private fund advisory business, we are not modifying Condition 5 at this time.

Several commenters disagreed with limiting umbrella registration eligibility to advisers operating a single private fund advisory business as described in Condition 1.[236] Some commenters urged the Commission to make umbrella registration available where the advisers operate a single advisory business for types of clients other than those described in Condition 1, including registered investment companies and business development companies.[237] Another commenter disagreed with limiting eligibility to a single advisory business of any kind and suggested that umbrella registration apply to all related persons of a filing adviser.[238] However, as we stated in the Proposing Release, we do not believe umbrella registration is appropriate for advisers that are related but that operate separate advisory businesses as it would compromise data quality and complicate analyses that rely on data from Form ADV.[239] We believe that by adopting umbrella registration as proposed, we are best able to accommodate the unique needs of private fund advisers that operate a single advisory business through multiple legal entities without compromising the data quality or analyses that rely on data from Form ADV.

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[222] ABA Committee Letter; AIMA Letter; Dechert Letter; NYSBA Committee Letter; Schulte Letter. *See also* Shearman Letter.

[223] 2012 ABA Letter, *supra* footnote 5 at n.9; *See* Exemptions Release, *supra* footnote 203 at Section II.D.

[224] ABA Committee Letter; AIMA Letter; NYSBA Committee Letter; Schulte Letter; Shearman Letter.

[225] AIMA Letter; NYSBA Committee Letter. *See also* Dechert Letter; ABA Committee Letter (suggesting that we state on Form ADV that the Advisers Act applies with respect to all U.S. clients of every registered investment adviser, and with respect to all of the activities of registered investment advisers that have their principal place of business in the United States).

[226] Certain commenters discussed our cross-border application of the Advisers Act. ABA Committee Letter; Dechert Letter; Schulte Letter. Most of the substantive provisions of the Advisers Act are not applied to the non-U.S. clients of a non-U.S. adviser registered with the Commission but non-U.S. advisers registered with the Commission must comply with the Advisers Act and the Commission's rules thereunder with respect to any U.S. clients (and any prospective U.S. clients) they may have. *See* Proposing Release, *supra* footnote 3 at n.57 and Exemptions Release, *supra* footnote 203 at Section II.D.

[227] Schulte Letter; Shearman Letter.

[228] Proposing Release, *supra* footnote 3 at Section II.A.3.

[229] ABA Committee Letter; ACG Letter; AIMA Letter; ASG Letter; MFA Letter; NYSBA Committee Letter; SBIA Letter; Schulte Letter; Shearman Letter.

[230] ABA Committee Letter; AIMA Letter; MFA Letter; SBIA Letter; Schulte Letter. *See also* ACG Letter.

[231] Specifically, exempt reporting advisers are not subject to the requirement for compliance policies and procedures pursuant to rule 206(4)–7 under the Advisers Act or for a code of ethics pursuant to rule 204A–1 under the Advisers Act. *See* ACG Letter.

[232] Frequently Asked Questions on Form ADV and IARD, *Reporting to the SEC as an Exempt Reporting Adviser* (Mar. 2012), *available at https://www.sec.gov/divisions/investment/iard/iardfaq.shtml#exemptreportingadviser.*

[233] ABA Committee Letter; AIMA Letter; NYSBA Committee Letter.

[234] Capital Research Letter. *See* ACG Letter (stating that Condition 5 would have the practical effect of excluding exempt reporting advisers from eligibility for umbrella registration because exempt reporting advisers are not required by Advisers Act rule 204A–1 to adopt a code of ethics, nor are they required by Advisers Act rule 206(4)–7 to adopt compliance policies and procedures).

[235] Capital Research Letter.

[236] ASG Letter; BlackRock Letter; Capital Research Letter; Dechert Letter; Comment Letter of Tannenbaum Helpern Syracuse & Hirschtritt LLP (Aug. 5, 2016) ("Tannenbaum Letter") (disagreed with "substantially similar or otherwise related" language, because advisers may operate a single business with different investment strategies).

[237] ASG Letter; Dechert Letter. *See also* BlackRock Letter.

[238] Capital Research Letter.

[239] Proposing Release, *supra* footnote 3 at Section II.A.3.

Several commenters took issue with the proposal's requirement to determine asset-based eligibility for umbrella registration on an entity-by-entity, rather than consolidated, basis.[240] These commenters suggested that the goals of providing a clearer picture of groups of related advisers that operate as a single business and establishing a more efficient method for registration for separate legal entities that collectively conduct a single advisory business would be better served by allowing the group to determine asset-based eligibility for umbrella registration on a consolidated basis.[241] Umbrella registration was intended to consolidate the multiple registration forms that may otherwise have been required by a single advisory business. It was not intended to alter or modify the eligibility for registration with the Commission.[242]

Some commenters disagreed with the requirement contained in Condition 1 that separately managed accounts be owned by qualified clients.[243] One commenter stated that the qualified client requirement for separately managed accounts is not related to the single business requirement.[244] Condition 1 also requires that the qualified clients be otherwise eligible to invest in the private funds advised by the filing adviser or a relying adviser and that their accounts pursue investment objectives and strategies that are substantially similar or otherwise related to those private funds. Condition 1, including the qualified client requirement, is intended to ensure the commonality of clients that we believe is an important indicia of a single private fund advisory business. For example, if a group of advisers advised private funds as well as separately managed accounts held by non-qualified clients or separately managed accounts that pursue investment objectives or strategies that differ from the private funds they advise, we do not believe they would be operating a single private fund advisory business. The offering of separately managed accounts to clients other than qualified clients (such as retail clients) or separately managed accounts that pursue investment objectives or strategies that differ from the private funds they advise indicate that the group of advisers is engaged in lines of business that differ from a single private fund advisory business that we intend to cover with umbrella registration. Accordingly, at this time, we continue to believe that a group of advisers' ability to comply with Condition 1, including the qualified client requirement for separately managed accounts, is a meaningful indicia of a single private fund advisory business, and we are therefore adopting Condition 1 as proposed.

We also received several comments on the new amendments to Form ADV to accommodate umbrella registration. Two commenters generally supported the benefits of new Schedule R, which requires separate reporting of indirect and direct ownership for relying advisers (similar to current Schedules A and B of Form ADV).[245] One commenter was concerned that relying advisers, which may act as special purpose general partners or similar entities and may be owned by employees sharing in the performance-based compensation paid by the fund, would in effect be forced to share the details of employee compensation on a public filing.[246] The ownership information required of relying advisers is consistent with the ownership information required of filing advisers. We believe this information will more accurately reflect the full nature and scope of the single advisory business conducted by the group of related advisers and will be more informative for advisory clients and private fund investors as well as the Commission.[247]

4. Clarifying, Technical and Other Amendments to Form ADV

We are adopting, largely as proposed, several amendments to Form ADV that are designed to clarify the form and its instructions. As noted in the Proposing Release, we believe these amendments to Form ADV will make the filing process clearer and more efficient for advisers and increase the reliability and the consistency of information provided by investment advisers. More reliable and consistent information will improve our staff's ability to interpret, understand, and place in context the information provided by advisers, allow our staff to make comparisons across investment advisers and improve the risk assessment and examination program. Many of these amendments are derived from questions frequently received by our staff. Except where noted, we did not receive comments on these amendments.

a. Amendments to Item 2

Item 2.A. of Part 1A of Form ADV requires an adviser to select the basis upon which it is eligible to register with the Commission, and Item 2.A.(9) includes as a basis that the adviser is eligible for registration because it is a "newly formed adviser" relying on rule 203A–2(c) because it expects to be eligible for SEC registration within 120 days.[248] Section 2.A.(9) of Schedule D is entitled "Newly Formed Adviser" and requests the adviser to make certain representations. As noted in the Proposing Release, our staff has received questions about whether the exemption from the prohibition on Commission registration contained in rule 203A–2(c) under the Advisers Act applies only to entities that have been "newly formed," *i.e.*, newly created as corporate or other legal entities. It does not only apply to newly created entities and therefore, as proposed, we are deleting the phrase "newly formed adviser" from Item 2.A.(9) and Section 2.A.(9) of Schedule D. Section 2.A.(9) will be renamed "Investment Adviser Expecting to be Eligible for Commission Registration within 120 Days." [249]

b. Amendments to Item 4

Item 4 of Part 1A of Form ADV addresses successions of investment advisers, and the Instructions to Item 4 provide that a new organization has been created under certain circumstances, including if the adviser has changed its structure or legal status (*e.g.*, form of organization or state of incorporation). As noted in the Proposing Release, our staff frequently receives questions from investment advisers regarding this item and, as proposed, we are adding to Item 4 and Section 4 of Schedule D text that is currently contained in the Instructions to Item 4 that succeeding to the business of a registered investment adviser includes, for example, a change of structure or legal status (*e.g.*, form of organization or state of incorporation).[250]

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[240] Dechert Letter; Morgan Letter; NRS Letter; NYSBA Committee Letter. *See* MFA Letter (arguing that a registered private fund adviser that serves as a filing adviser should be able to add a relying adviser that is an exempt reporting adviser to its umbrella registration).

[241] *Id.*

[242] *See* Proposing Release, *supra* footnote 3 at Section II.A.3. To the extent there is concern about the eligibility of SEC registration for newly-formed relying advisers, rule 203A–2(c) provides an exemption for advisers that expect to be eligible for Commission registration within 120 days.

[243] Morgan Letter; NYSBA Committee Letter; Tannenbaum Letter. *See also* PCA Letter.

[244] NYSBA Committee Letter.

[245] ASG Letter; PEGCC Letter.

[246] Shearman Letter.

[247] *See* Proposing Release, *supra* footnote 3 at Section II.A.3.

[248] Form ADV, Part 1A, Item 2.A.(9) and Section 2.A.(9) of Schedule D.

[249] Amended Form ADV, Part 1A, Item 2.A.(9); *see* rule 203A–2(c) under the Advisers Act.

c. Amendments to Item 7

Item 7 of Part 1A of Form ADV and corresponding sections of Schedule D require advisers to report information about their financial industry affiliations and the private funds they advise. We are adopting several technical amendments to Item 7. As proposed, we are revising Item 7.A., which requires advisers to check whether their related persons are within certain categories of the financial industry, to clarify that advisers should not disclose in response to this item that some of their employees perform investment advisory functions or are registered representatives of a broker-dealer, because this information is required to be reported on Items 5.B.(1) and 5.B.(2) of Part 1A, respectively. Items 5.B.(1) and 5.B.(2) request information about an adviser's employees. Adding this text to Form ADV should assist filers in filling out the form as well as provide more accurate data to us and the general public.[251]

Item 7.B. of Part 1A of Form ADV asks whether the adviser serves as adviser to any private fund. Section 7.B.(1) of Schedule D requires advisers to provide information about the private funds they manage. We are adding text to Item 7.B. clarifying that Section 7.B.(1) of Schedule D should not be completed if another SEC-registered adviser or SEC exempt reporting adviser reports the information required by Section 7.B.(1) of Schedule D. Currently the instructions only refer to another adviser. We are also adopting, as proposed, several amendments to Section 7.B.(1) of Schedule D. Question 8 of Section 7.B.(1) currently asks whether the private fund is a "fund of funds," and if it is, whether the private fund invests in funds managed by the adviser or a related person of the adviser. Below those two questions there is a note informing advisers when they should answer yes to the first question regarding whether the private fund is a "fund of funds." We are moving the note to directly after Question 8.(a).[252] We believe this change will assist filers in answering Question 8.

Question 10 of Section 7.B.(1) of Schedule D asks the adviser to identify the category of the private fund. As proposed, we are deleting text in Question 10 that directs advisers to refer to the underlying funds of a fund of funds when selecting the type of fund, in order to reconcile differences with Form PF, which permits advisers to disregard any private fund's equity investments in other private funds.[253] Question 19 of Section 7.B.(1) of Schedule D asks whether the adviser's clients are solicited to invest in the private fund. We are adding text to Question 19, as proposed, to make clear that the adviser should not consider feeder funds as clients of the adviser to a private fund when answering whether the adviser's clients are solicited to invest in the private fund.[254] As noted in the Proposing Release, this is a common question that our staff receives and the intent of Question 19 is not to capture affiliated feeder funds. Question 21 of Section 7.B.(1) of Schedule D asks whether the private fund relies on an exemption from registration of its securities under Regulation D of the Securities Act of 1933 and Question 22 asks for the private fund's Form D file number. We are adopting a clarifying revision to Question 21 as proposed to ask if the private fund has ever relied on an exemption from registration of its securities under Regulation D, in order to better reflect the intention of the Question.[255] The current Question 21, if answered in the negative, would not require the adviser to provide the private fund's Form D file number in Question 22, meaning we would not receive Form D file numbers in the event there was past reliance on Regulation D.[256]

We are adopting revisions to Question 23.(a)(2) as proposed. Currently, this question requires an adviser to check a box to indicate whether the private fund's financial statements are prepared in accordance with U.S. generally accepted accounting principles ("GAAP").[257] We are adding text instructing advisers that they are required to answer Question 23.(a)(2) only if they answer "yes" to Question 23.(a)(1), which asks whether the private fund's financial statements are subject to an annual audit.[258] This revision will clarify when an adviser is actually required to answer Question 23.(a)(2). We are also revising Question 23.(g) as proposed. The question currently asks whether the private fund's audited financial statements are distributed to the private fund's investors. We are adding "for the most recently completed fiscal year" to clarify the question. In addition, we are revising Question 23.(h) as proposed. This question currently asks whether the report prepared by the auditing firm contains an unqualified opinion.[259] As noted in the Proposing Release, this question has prompted questions from advisers regarding which report and what timeframe the question refers to. To clarify, we are revising the question, as proposed, to ask whether all of the reports prepared by the auditing firm since the date of the adviser's last annual updating amendment contain unqualified opinions.[260] Finally, as proposed, we are adding Question 25.(g), which requests the legal entity identifier, if any, for a private fund custodian that is not a broker-dealer, or that is a broker-dealer but does not have an SEC registration number. The legal entity identifier is a unique identifier associated with a single entity and is intended to provide a uniform international standard for identifying parties to financial transactions. Furthermore, the reporting of legal entity identifier information on Form ADV facilitates the ability of investors and the Commission to link the data reported with data from other filings or sources that is reported elsewhere as legal entity identifiers become more widely used by regulators and the financial industry. This information will help our examination staff more readily identify the use of particular custodians by private funds.

d. Amendments to Item 8

Based on inquiries from filers, we are adopting the proposed amendments to Item 8 with a modification to clarify that newly-formed advisers should answer questions in the item based on the types of participation and interest they expect to engage in during the next year. In the Proposing Release, we did not specify that the instruction was for newly-formed advisers, and commenters expressed concern that the proposal would make Item 8 the only section in Part 1A requesting forward-looking information, and were concerned about the difficulty around gauging the likelihood of future events and the possibility for "false positives." [261] We agree and, as adopted here, we have updated the Item to address commenters' concerns.

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[250] Amended Form ADV, Part 1A, Item 4.A. and Section 4 of Schedule D.

[251] Amended Form ADV, Part 1A, Item 7. The staff has provided this clarification and it is currently available online at our staff's Frequently Asked Questions on Form ADV and IARD, *available at http://www.sec.gov/divisions/investment/iard/iardfaq.shtml.*

[252] Amended Form ADV, Part 1A, Section 7.B.(1) of Schedule D, Questions 8.(a)–(b).

[253] Amended Form ADV, Part 1A, Section 7.B.(1) of Schedule D, Question 10. *See* Form PF, General Instruction 7.

[254] Amended Form ADV, Part 1A, Section 7.B.(1) of Schedule D, Question 19.

[255] Amended Form ADV, Part 1A, Section 7.B.(1) of Schedule D, Question 21.

[256] Form ADV, Part 1A, Section 7.B.(1) of Schedule D, Question 21.

[257] Form ADV, Part 1A, Section 7.B.(1) of Schedule D, Question 23.(a)(2).

[258] Amended Form ADV, Part 1A, Section 7.B.(1) of Schedule D, Question 23.(a)(2).

[259] Form ADV, Part 1A, Section 7.B.(1) of Schedule D, Question 23.(h).

[260] Amended Form ADV, Part 1A, Section 7.B.(1) of Schedule D, Question 23.(h).

Item 8.B.(2) of Part 1A of Form ADV currently asks whether the adviser or any related person of the adviser recommends the purchase of securities to advisory clients for which the adviser or any related person of the adviser serves as underwriter, general or managing partner, or purchaser representative.[262] The current wording has caused confusion regarding the treatment of purchaser representatives. As proposed, we are rewording the question to ask whether the adviser or any related person of the adviser recommends to advisory clients or acts as a purchaser representative for advisory clients with respect to the purchase of securities for which the adviser or any related person of the adviser serves as underwriter or general or managing partner. As noted in the Proposing Release, this edit is designed to clarify that the question applies to any related person who recommends to advisory clients or acts as a purchaser representative for advisory clients with respect to the purchase of securities for which the adviser or any related person of the adviser serves as underwriter or general or managing partner.[263]

Item 8.H. of Part 1A of Form ADV asks whether the adviser or any related person of the adviser, directly or indirectly, compensates any person for client referrals. We are revising Item 8.H. as proposed to break the question into two parts to increase our understanding of compensation for client referrals. Revised Item 8.H.(1) will cover compensation to persons other than employees for client referrals.[264] Revised Item 8.H.(2) will cover compensation to employees, in addition to employees' regular salaries, for obtaining clients for the firm.[265] Item 8.I. asks whether the adviser or any related person of the adviser directly or indirectly receives compensation from any person other than the adviser or related person of the adviser for client referrals. We are also adding text to Item 8.I., as proposed, to clarify that advisers should not include the regular salary that the adviser pays to an employee in responding to this item.[266]

Two commenters thought that the proposed amendment to Item 8.H was highly subjective and needed additional guidance.[267] In addition, one commenter suggested that Part 2B of Form ADV provided adequate disclosure of employee compensation.[268] While we appreciate these comments, we are adopting these amendments as proposed. We continue to believe Item 8.H and the accompanying instructions are sufficiently clear and are appropriate to accommodate responses from and provide flexibility to varying types of advisory businesses and compensation arrangements. As noted in the Proposing Release, we are adopting these amendments to Item 8.H to better understand how advisers compensate both their staff and third parties for client referrals. The revisions to this item do not change the scope of the information collected, but instead provide more precise information about compensation for client referrals.

e. Amendments to Section 9.C. of Schedule D

Section 9.C. of Schedule D requests information about independent public accountants that perform surprise examinations in connection with the Advisers Act custody rule, rule 206(4)–2. We are adopting two changes to Section 9.C. of Schedule D as proposed. First, we are adding text requiring an adviser to provide the PCAOB-assigned number of the adviser's independent public accountant. This will improve our staff's ability to cross-reference information submitted through other systems and evaluate compliance with the custody rule.[269] Section 9.C.(6) currently requires advisers to report whether any report prepared by an independent public accountant that audited a pooled investment vehicle or examined internal controls contained an unqualified opinion. We are amending Section 9.C.(6) in a manner similar to Section 7.B.(1) of Schedule D, Question 23.(h) as described above to provide clarity to filers. Accordingly, the question will now ask whether all of the reports prepared by the independent public accountant since the date of the last annual updating amendment have contained unqualified opinions.[270]

We received requests from multiple commenters to amend Item 9 of Part 1A and Section 9.C. of Schedule D related to custody.[271] We appreciate commenters' suggestions, but these suggested amendments to Item 9 or Section 9.C. are outside the scope of this rulemaking and we are not amending them at this time.

f. Amendments to Disclosure Reporting Pages

Item 11 of Part 1A of Form ADV requires registered advisers and exempt reporting advisers to provide information about their disciplinary history and the disciplinary history of their advisory affiliates. Those advisers who report an event for purposes of Item 11 are directed to complete a Disclosure Reporting Page ("DRP") to provide the details of the event. DRPs can be removed from Form ADV under certain circumstances, including when "the adviser is registered or applying for registration with the SEC and the event was resolved in the adviser's or advisory affiliate's favor." [272] As proposed, we are amending this text in each DRP to add "or reporting as an exempt reporting adviser with the SEC" after "applying for registration with the SEC" to clarify that both registered and exempt reporting advisers may remove a DRP from their Form ADV record if a criminal, regulatory or civil judicial action was resolved in the adviser's (or advisory affiliate's) favor.[273] As discussed in the Proposing Release, these amendments will make disciplinary reporting uniform across registered and exempt reporting advisers, consistent with requiring exempt reporting advisers to report disciplinary events on Form ADV.

g. Amendments to Instructions and Glossary

Together with the amendments to Part 1A, we are also adopting, as proposed, conforming amendments to the General Instructions and the Glossary for Form ADV. As discussed above, we are amending the General Instructions to include instructions regarding umbrella registration. As proposed, we are also removing outdated references to

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[261] *See* IAA Letter; Oppenheimer Letter; SIFMA Letter.

[262] Form ADV, Part 1A, Item 8.B.(2).

[263] Amended Form ADV, Part 1A, Item 8.B.(2).

[264] Amended Form ADV, Part 1A, Item 8.H.(1).

[265] Amended Form ADV, Part 1A, Item 8.H.(2).

[266] Amended Form ADV, Part 1A, Item 8.I.

[267] *See* MMI Letter (Item 8.H.(2) should be modified to conform with Item 5 of Part 2B, where economic benefits for providing advisory services are disclosed, but not regular salaries or bonuses). *See also* PCA Letter.

[268] JAG Letter.

[269] Amended Form ADV, Part 1A, Section 9.C.(3) of Schedule D.

[270] Amended Form ADV, Part 1A, Section 9.C.(6) of Schedule D.

[271] *See* ASG Letter; Comment Letter of Pat Hyman (June 11, 2015) ("Hyman Letter"); IAA Letter; PCA Letter and Schwab & Co. Letter.

[272] Form ADV, Part 1A, Criminal, Regulatory Action and Civil Judicial Action Disclosure Reporting Pages.

[273] Amended Form ADV, Part 1A, Criminal, Regulatory Action and Civil Judicial Action Disclosure Reporting Pages.

"Special One-Time Dodd-Frank Transition Filing for SEC Registered Advisers" and "recent" amendments to Form ADV Part 2 that are no longer needed. We retained one sentence from those instructions that specifies that every application for registration must include a narrative brochure prepared in accordance with the requirements of Part 2A of Form ADV.[274] We also added clarifying language that exempt reporting advisers submitting other than annual amendments should update corresponding sections of Schedules A, B, C and D,[275] and provided updated mailing instructions for FINRA.[276] In the glossary, we are updating the definition of "Legal Entity Identifier" to reflect recent advancements in this protocol.[277]

Where applicable, we are making technical revisions, as proposed, to specify that an adviser must "apply for registration" (rather than simply "register") to more accurately reflect the rule text. As proposed, we are also deleting text in the instructions related to Item 1.O. because this text is going to appear directly in the corresponding section of Part 1 of Form ADV. We are adding text clarifying that a change in information related to Item 1.O. does not necessitate a prompt other-than-annual amendment (as changes to Item 1 otherwise do).

We have also received numerous comment letters recommending additional amendments to clarify other sections of Form ADV.[278] While we appreciate commenters raising their concerns with us, these suggested recommendations are outside the scope of this rulemaking and we decline to take action to further modify Form ADV based on these comments.

B. Amendments to Investment Advisers Act Rules

1. Amendments to Books and Records Rule

We are adopting two amendments to the Advisers Act books and records rule, rule 204–2, largely as proposed, that will require advisers to maintain additional materials related to the calculation and distribution of performance information.

Rule 204–2(a)(16) currently requires advisers that are registered or required to be registered with us to maintain records supporting performance claims in communications that are distributed or circulated to ten or more persons.[279] Consistent with the proposal, we are amending rule 204–2(a)(16) by removing the ten or more persons condition and replacing it with "any person." Accordingly, under the amended rule, advisers will be required to maintain the materials listed in rule 204–2(a)(16) that demonstrate the calculation of the performance or rate of return in any communication that the adviser circulates or distributes, directly or indirectly, to any person.

We are also adopting amendments to rule 204–2(a)(7). Rule 204–2(a)(7) currently requires advisers that are registered or required to be registered with us to maintain certain categories of written communications received and copies of written communications sent by such advisers.[280] Consistent with the proposal, we are amending rule 204–2(a)(7) to require advisers to also maintain originals of all written communications received and copies of written communications sent by an investment adviser relating to the performance or rate of return of any or all managed accounts or securities recommendations.

Several commenters expressed general support for the proposed amendments to the books and records rule,[281] while other commenters felt the proposed amendments would be unnecessary and a significant burden on advisers.[282] Several commenters also suggested the proposed amendments be modified to exclude one-on-one communications that are customized responses from investors or communications with sophisticated investors or clients.[283] In addition, two commenters raised concerns about the applicability of the amendments to rule 204–2 to performance information that predated the effective date of the amendments.[284]

Based on a comment we received,[285] we are making one non-substantive modification to the proposed amendments. To clarify and avoid confusion, we are adding the new subsection (iv) of rule 204–2(a)(7) immediately following subsection (iii) of the rule and preceding the proviso regarding unsolicited market letters and records of names and addresses of persons to whom an adviser sent particular items. A commenter noted that this placement of the new subsection raised questions about whether the proviso also applied to new subsection (iv). The proviso does apply to new subsection (iv) and we believe that, by moving subsection (iv) to immediately after subsection (iii) and before the proviso, we have addressed the commenter's concern.

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[274] Amended Form ADV, General Instructions, Instruction 3.

[275] Amended Form ADV, General Instructions, Instruction 4.

[276] Amended Form ADV, General Instructions, Instruction 9.

[277] The definition of Legal Entity Identifier is: A "legal entity identifier" assigned by a utility endorsed by the Global LEI Regulatory Oversight Committee (ROC) or accredited by the Global LEI Foundation (GLEIF). *See* Amended Form ADV, Glossary. In Item 1.P., we are removing outdated text referring to the "legal entity identifier" as being "in development" in the first half of 2011.

[278] *See, e.g.,* ASG Letter (Items 6 and 7); JGAS Letter; PCA Letter (Item 8); NYSBA Committee Letter (Items 5 and 8 and Schedule D); PCA Letter (Items 5 and 8); T. Rowe Price Letter (definition of "regulatory assets under management" in subadvisory arrangements). BlackRock also recommended we use XML format for Form ADV filings. *See* BlackRock Letter.

[279] Rule 204–2(a)(16) requires advisers to make and keep "All accounts, books, internal working papers, and any other records or documents that are necessary to form the basis for or demonstrate the calculation of the performance or rate of return of any or all managed accounts or securities recommendations in any notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication that the investment adviser circulates or distributes, directly or indirectly, to 10 or more persons (other than persons connected with such investment adviser); provided, however, that, with respect to the performance of managed accounts, "the retention of all account statements, if they reflect all debits, credits, and other transactions in a client's account for the period of the statement, and all worksheets necessary to demonstrate the calculation of the performance or rate of return of all managed accounts shall be deemed to satisfy the requirements of this paragraph."

[280] Rule 204–2(a)(7) requires advisers to make and keep: "Originals of all written communications received and copies of all written communications sent by such investment adviser relating to (i) any recommendation made or proposed to be made and any advice given or proposed to be given, (ii) any receipt, disbursement or delivery of funds or securities, or (iii) the placing or execution of any order to purchase or sell any security."

[281] *See, e.g.,* ABA Committee Letter; CFA Letter; LPL Letter (supporting the proposed amendments to rule 204–2(a)(7) but suggesting an exception to rule 204–2(a)(16) for communications addressed to a single client regarding that client's particular account or security in the account); NASAA Letter; PCA Letter (finding the proposed rule change sufficient but expressing concern with the Commission linking the requirement to maintain records pertaining to calculation of individual client account performance history, which are communications and not advertising, to the enforcement of rule 206(4)–1); Comment Letter of Wells Fargo Funds Management, LLC (Aug. 11, 2015) ("Wells Fargo Letter").

[282] *See, e.g.,* ACG Letter; Anonymous Letter (citing specific costs of increased training needed to implement and possible software updates); ASG Letter (asserting the amended requirement is burdensome because advisers do not always maintain copies of individual performance provided on an ad hoc basis); PEGCC Letter (stating the Commission significantly understates the burden of complying with the proposed amendments); SBIA Letter (noting that while the amendments themselves are not burdensome, when they are aggregated with other recordkeeping obligations, they could lead to overall compliance burdens for smaller advisers); Schnase Letter (advisers may find it difficult to discern whether particular materials are subject to the rule). One commenter suggested that the amendments to rule 204–2(a)(7) are not necessary because other recordkeeping provisions already require advisers to maintain those records. *See* IAA Letter.

[283] PEGCC Letter. *See also* Comment Letter of Michael D. Berlin (June 8, 2015) ("Berlin Letter"); LPL Letter.

[284] *See* Comment Letter of Arnstein & Lehr LLP (Dec. 3, 2015); NRS Letter.

[285] *See* IAA Letter (noting that the new subsection (iv) of rule 204–2(a)(7), as it currently appears, is unclear on whether an adviser would be required to maintain records relating to unsolicited market letters or other communications discussing the performance of securities that the adviser recommended to its clients).

We are adopting the rest of the amendments to rule 204–2 as proposed. While we appreciate the concerns raised by commenters, we continue to believe the veracity of performance information is important regardless of whether it is a personalized client communication or in an advertisement sent to ten or more persons. As noted in the Proposing Release, a recent enforcement action demonstrated to us the disadvantages of not requiring investment advisers to maintain records forming the basis of performance calculations or performance communications sent to individuals.[286] Moreover, it has been our staff's experience that investment advisers routinely make and preserve communications containing performance information and records to support the performance claims. Based on our staff's experience and the confirmation of several commenters, we believe that most advisers already maintain this information.[287]

We believe these records will be useful in examining and evaluating adviser performance claims. Investors will benefit to the extent that the amendments reduce the incidence of misleading or fraudulent advertising and communications. For these reasons, we are adopting the amendments to the Adviser Act books and records rule, rule 204–2, as proposed.

These amendments will apply to communications circulated or distributed after the compliance date of amended rule 204–2. Advisers that circulate or distribute communications after the compliance date that include performance information, including information on performance that predates the effective date of these amendments, will be required to maintain materials listed in rule 204–2(a)(16) that demonstrate the calculation of the performance.[288]

2. Technical Amendments to Advisers Act Rules

We are adopting the proposed technical amendments to several rules under the Advisers Act and withdrawing transition rule 203A–5 under the Advisers Act. Consistent with the proposal, we are removing transition provisions from rules where the transition process is complete. Three of the provisions were added as part of the implementation of the Dodd-Frank Act. Two of the provisions were added when we amended Form ADV and several Advisers Act rules to require advisers to electronically file their brochures with the Commission. One commenter specifically supported removal of the transition provisions.[289]

a. Rule 203A–5

The Dodd-Frank Act amended section 203A of the Advisers Act to prohibit from SEC registration "mid-sized" advisers that generally have assets under management of between $25 million and $100 million.[290] Rule 203A–5 provided a temporary exemption from the prohibition on registration for mid-sized advisers to facilitate their transition to state registration.[291] As proposed, we are withdrawing rule 203A–5 because the transition of mid-sized advisers from SEC to state registration was completed in June 2012.

b. Rule 202(a)(11)(G)–1(e)

Section 409 of the Dodd-Frank Act created a new exclusion from the definition of "investment adviser" in section 202(a)(11)(G) of the Advisers Act for family offices. The Commission adopted rule 202(a)(11)(G)–1 [292] defining a family office and provided two extended transition periods for family offices with certain charitable organization clients and family offices relying on the rescinded "private adviser" exemption.[293] As proposed, we are removing paragraph (e) of rule 202(a)(11)(G)–1 because subparagraph (1) of the transition provisions provided for by it expired on December 31, 2013, and subparagraph (2) expired on March 30, 2012.

c. Rule 203–1(e)

Rule 203–1 outlines the procedures for advisers to register with the Commission. Paragraph (e) of the rule was added as part of the implementation of the Dodd-Frank Act and allowed companies that were relying on the rescinded "private adviser" exemption [294] to remain exempt from registration until March 30, 2012 under certain conditions.[295] As proposed, we are removing paragraph (e) from Rule 203–1 because the transition for private advisers is now complete.

d. Rule 203–1(b), Rule 204–1(c) and Rule 204–3(g)

Rule 203–1 and Rule 204–1 were amended in 2010 to provide transition periods for advisers to file narrative brochures required by Part 2A of Form ADV electronically with the Investment Adviser Registration Depository ("IARD").[296] Rule 203–1(b), entitled "transition to electronic filing," requires investment advisers applying for registration after January 1, 2011 to file their brochures electronically unless they receive a continuing hardship exemption.[297] Rule 204–1(c) requires investment advisers that are required to file a brochure and had a fiscal year that ended on or after December 31, 2010 to electronically file a Part 2A brochure as part of their next annual updating amendment. As proposed, we are removing paragraph (b) from rule 203–1 and paragraph (c) from rule 204–1 because the transition to electronic filing is now complete.[298] We also are making a technical, conforming additional change by removing rule 204–3(g) because it refers to the transition provision in rule 204–1(c).[299]

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[286] *In the Matter of Michael R. Pelosi,* Investment Advisers Act Release No. 3141 (Jan. 14, 2011); Initial Decision Release No. 448 (Jan. 5, 2012); Investment Advisers Act Release No. 3805 (Mar. 27, 2014) (Commission opinion dismissing proceeding against associated person of registered investment adviser charged with providing false and misleading performance information because the record lacked an evidentiary basis from which to determine that the performance information was materially false or misleading).

[287] *See, e.g.,* ABA Committee Letter; Morningstar Letter; PCA Letter. *See also* IAA Letter.

[288] We note that to the extent this information was previously or is currently included in an advertisement, the adviser is already required to maintain the information under rule 204–2(a)(16).

[289] *See* NRS Letter.

[290] *See* Section 410 of the Dodd-Frank Act.

[291] *See* Implementing Release, *supra* footnote 133.

[292] *Family Offices,* Investment Advisers Act Release No. 3220 (June 22, 2011) [76 FR 37983 (June 29, 2011)].

[293] Section 203(b)(3) of the Advisers Act as in effect before Jul. 21, 2011, repealed by section 403 of the Dodd-Frank Act.

[294] *Id.*

[295] *See* Implementing Release, *supra* footnote 133. The rule 203–1(e) exemption from registration requires not only reliance on the former private adviser exemption but also that an adviser have fifteen or fewer clients in the preceding twelve months and neither hold itself out to the public as an investment adviser nor act as an investment adviser to a registered investment company or business development company.

[296] *Amendments to Form ADV,* Investment Advisers Act Release No. 3060 (Jul. 28, 2010) [75 FR 49233 (Aug. 12, 2010)].

[297] The continuing hardship exemption under rule 203–3 will not be withdrawn by these technical amendments.

[298] Current paragraphs (c) and (d) of Rule 203–1 are redesignated as (b) and (c) and current paragraphs (d) and (e) of Rule 204–1 are redesignated as (c) and (d).

[299] Current paragraph (h) of Rule 204–3 is redesignated as (g).

III. Effective and Compliance Dates

A. Effective Date

The effective date of the amendments to rules 204–2, 202(a)(11)(G)–1, 203–1, 204–1 and 204–3, and the amendments to Form ADV is October 31, 2016. Rule 203A–5 is removed effective October 31, 2016.

B. Compliance Dates

1. Amendments to Form ADV

Several commenters requested a compliance date of at least one year after adoption.[300] Any adviser filing an initial Form ADV or an amendment to an existing Form ADV on or after October 1, 2017 will be required to provide responses to the form revisions we are adopting today. Our staff is working closely with FINRA to re-program IARD and we understand that the system is expected to be able to accept filings of revised Form ADV by October 1, 2017. This date is over one year from adoption. In addition, most advisers will not be filing their annual updating amendment until the first quarter of 2018, and therefore we believe this compliance period is appropriate.

2. Amendments to Investment Advisers Act Rules

Our amendments to the books and records rule, 275.204–2, will apply to communications circulated or distributed after October 1, 2017. As discussed in Section II.B.(1), advisers that circulate or distribute communications after October 1, 2017 that include performance information, including information on performance that predates that date, will be required to maintain the materials listed in 275.204–2(a)(16) that demonstrate the calculation of the performance.

IV. Economic Analysis

A. Introduction

We are sensitive to the benefits and costs imposed by our rules and understand that there will be costs associated with complying with the amendments. The following economic analysis identifies and considers the benefits and costs—including the effects on efficiency, competition, and capital formation—that will result from the amendments to Form ADV and the amendments to and rescission of certain rules under the Investment Advisers Act. The economic effects considered in adopting the amendments are discussed below.

We are adopting amendments to Form ADV and the Advisers Act books and records rule 204–2, and technical amendments to several other rules under the Advisers Act. In summary, and as discussed in greater detail in Section II. above, we are adopting the following amendments to Form ADV and Advisers Act rules:

- Amendments to Form ADV designed to fill certain data gaps and enhance current reporting provided by investment advisers in order to improve the depth and quality of the information we collect on investment advisers and to facilitate our risk monitoring objectives;
- Amendments to Form ADV to incorporate "umbrella registration" for private fund advisers;
- Clarifying, technical and other amendments to Part 1A of Form ADV;
- Amendments to the Advisers Act books and records rule to require advisers to make and keep supporting documentation that demonstrates performance calculations or rates of return in any written communications that the investment adviser circulates or distributes; and
- Technical amendments to several rules under the Advisers Act to remove transition provisions that are no longer necessary.

As discussed in the Proposing Release, we rely on information reported by investment advisers on Form ADV to monitor trends, assess emerging risks, inform policy choices and rulemaking, and assist our staff in examination and enforcement efforts.[301] We believe that the amendments to Form ADV will improve the information provided by investment advisers to the Commission, clients and prospective clients, and may improve investor protection by informing policy choices and focusing examination activities. We also believe that the amendments to the Advisers Act books and records rule may improve investor protections by providing useful information to our examination and enforcement staff in evaluating advisers' performance claims. While, as stated above, we believe that most that can rely on umbrella registration are doing so, incorporating umbrella registration into Form ADV will make the existence of umbrella registration more widely known to advisers, which may result in more eligible advisers taking advantage of the opportunity to umbrella register. This could, make filing ADV more efficient for such advisers, reducing their filing costs. In addition, we believe that incorporating umbrella registration into Form ADV will benefit the Commission, clients and prospective clients by improving the consistency and quality of the information that private fund advisers disclose about their business.

The regulatory regime as it exists today for investment advisers serves as the economic baseline against which the costs and benefits, as well as the impact on efficiency, competition, and capital formation of the amendments are discussed. The baseline includes the current requirement for investment advisers to file Form ADV, the staff guidance regarding a filing adviser filing a single Form ADV on behalf of itself and each relying adviser,[302] the current requirements for investment advisers to maintain books and records, and other current rules under the Advisers Act. The parties that will be affected by the amendments are: investment advisers that file Form ADV, including private fund advisers that rely on, or will rely on, umbrella registration, and investment advisers that currently manage, or will manage, separately managed accounts; the Commission; current and future advisory clients; and other current and future users of investment adviser information reported on Form ADV, including third-party information providers.

Based on IARD system data as of May 16, 2016, approximately 12,024 investment advisers are registered with the Commission, and 3,248 exempt reporting advisers file reports with the Commission. Approximately 8,718 investment advisers registered with the Commission (73%) reported assets under management attributable to separately managed account clients. Of those 8,718 advisers, approximately 2,538 advisers reported regulatory assets under management attributable to separately managed account clients of at least $500 million and less than $10 billion and approximately 545 advisers reported regulatory assets under management attributable to separately managed account clients of at least $10 billion.[303] Advisers with at least $10 billion in regulatory assets under management attributable to separately managed accounts will be subject to additional reporting on separately managed accounts on Form ADV. Approximately 743 registered advisers to private funds currently submit a single Form ADV on behalf of themselves and 2,587 relying advisers, relying on the 2012 ABA Letter. All investment advisers registered or required to be registered with the Commission are subject to the Advisers Act books and records rule.

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[300] *See* Anonymous Letter; Capital Research Letter; Dechert Letter; IAA Letter; MMI Letter; SIFMA Letter.

[301] Proposing Release, *supra* footnote 3 at Section III.A.

[302] *See* 2012 ABA Letter, *supra* footnote 5.

[303] Based on IARD system data as of May 16, 2016. These estimates are approximations because Form ADV currently collects information about assets under management by client type and the number of clients of each type in broad ranges. Item 5.D.(1)–(3) will require advisers to specify their assets under management and number of clients by client type, which will benefit our ability to understand and oversee the investment advisers that advise these accounts and recognize potential risks.

As we explained in the Proposing Release, we have sought, where possible, to quantify the costs, benefits, and effects on efficiency, competition, and capital formation expected to result from the amendments to Form ADV and Investment Advisers Act rules, and reasonable alternatives.[304] In many cases, however, we are unable to quantify the economic effects because we lack the information necessary to provide reasonable estimates. The economic effects of the amendments also depend upon a number of factors which we often cannot estimate. Examples include the extent to which investor protection and our ability to oversee investment advisers will improve, and the extent to which investors will utilize the information in Form ADV to choose or retain an investment adviser. Therefore, some of the discussion below is qualitative in nature. Several commenters raised concerns about the burdens and costs associated with these amendments, and in some cases suggested that our quantitative estimates in the Proposing Release underestimated these costs. We describe their comments below, and have modified certain provisions in response to the comments.

B. Amendments to Form ADV

Certain amendments to Form ADV are designed to address potential gaps in information, such as information about advisers' separately managed accounts, and obtain additional information on areas such as social media, additional offices, foreign clients, and wrap fee accounts. We believe this information will improve the depth and quality of information that we collect on investment advisers, which will assist the Commission in our oversight activities and clients and potential clients in assessing advisers.[305] We also are adopting amendments to Form ADV to establish a more efficient method for multiple private fund adviser entities operating a single advisory business to register with us using a single Form ADV. Finally, we are adopting several clarifying, technical and other amendments to Form ADV.

1. Economic Baseline and Affected Market Participants

As noted above and in the Proposing Release, the investment adviser regulatory regime currently in effect serves as the economic baseline against which the costs and benefits, as well as the impact on efficiency, competition and capital formation, of the amendments to Form ADV are discussed. Investment advisers use Form ADV to register with the Commission and with the states. Once registered, an investment adviser is required to file an annual amendment within 90 days of the end of its fiscal year, and more frequently if required by the instructions to Form ADV.[306] Form ADV is also used by exempt reporting advisers to submit, and periodically update, reports to the Commission by completing a limited subset of items on Form ADV. Information filed on Form ADV is publicly available through the IAPD Web site.[307] The parties that will be affected by the amendments to Form ADV are: Investment advisers that file Form ADV with the Commission; the Commission; current and future advisory clients; and other current and future users of information filed on Form ADV, including third-party information providers.

2. Analysis of the Amendments to Form ADV and Alternatives

As discussed in Section II. above, we believe the amendments to Form ADV will improve our ability to oversee investment advisers and identify potential risks by increasing the amount, consistency, and reliability of the information disclosed by investment advisers, which will enhance our staff's ability to effectively carry out the risk-based examination program and other risk monitoring activities, and may improve investor protection by informing policy choices and focusing examination activities. The amendments to Form ADV will address certain data gaps by requiring advisers to report additional information. Clients and potential clients may indirectly benefit to the extent that the amendments improve our oversight of investment advisers.

The enhanced reporting requirements also may directly improve the ability of clients and potential clients of investment advisers to make more informed decisions about the selection and retention of investment advisers.[308] To the extent that clients and future clients use the information investment advisers file in Form ADV to differentiate between investment advisers, the enhanced reporting requirements may result in a limited increase in competition among investment advisers for clients. The amendments will likely not have a significant effect on capital formation or on the ability of investors to efficiently allocate capital across investments because the amendments do not directly relate to the amount of capital investors allocate to investments or their ability to allocate capital across investments. We further identify effects on efficiency, competition, and capital formation in the discussion below.

a. Information Regarding Separately Managed Accounts

We are adopting amendments to Form ADV that will require investment advisers to report information regarding separately managed accounts, which are managed for clients other than pooled investment vehicles.[309] Based on IARD system data, approximately 73% of investment advisers registered with the Commission reported assets under management attributable to separately managed accounts.[310]

We do not currently collect information from investment advisers specific to separately managed accounts, but we currently collect detailed information about an adviser's registered investment company and private fund clients. The absence of detailed information about separately managed accounts limits the ability of our staff to understand, monitor and oversee the investment advisers that advise these accounts and recognize the risk exposures relating to these accounts. The newly reported information on Form ADV regarding separately managed accounts is intended to enhance the ability of our staff to effectively carry out our risk-based examination program and other risk-monitoring activities, as it does with other information on ADV and other filings by the Commission. The additional information regarding separately managed accounts will also assist us in addressing regulatory issues and identifying areas for additional examination and enforcement activities.

The additional information investment advisers will file relating to separately managed accounts will be publicly available.[311] As discussed above, we continue to believe that public disclosure of information about separately managed accounts on Form ADV is appropriate in the public interest as well as for the protection of investors. Commenters expressed concern relating to the public disclosure of the separately managed account information and its potential impact on competition between investment advisers. Many commenters opposing the public disclosure of separately managed account information cited the potential cost of disclosure of confidential information, particularly for advisers with a small number of separately managed account clients.[312] In addition, other commenters cited the potential disclosure of proprietary investment or trading strategies as a potential cost of publicly releasing the separately managed account information.[313]

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[304] Proposing Release, *supra* footnote 3 at Section III.A.

[305] *See supra* Section I.

[306] *See* rule 204–1(a) under the Advisers Act.

[307] Certain personal identifying information is not made public.

[308] *See supra* Section II.A.2.a.

[309] *See supra* Section II.A.1.

[310] Based on IARD system data as of May 16, 2016.

We revised certain items on the form to address commenters' concerns regarding the potential disclosure of confidential or proprietary information. As proposed, Item 5.D. would have required investment advisers to report the number of clients even for investment advisers that manage fewer than five accounts. In addition, under the proposed amendments, Section 5.K.(2) of Schedule D would have required investment advisers to report the number of accounts and the net asset value of the accounts.[314] In response to comments, we have revised Item 5.D. by adding a "Fewer than 5 clients" column, which allows advisers with fewer than five clients in a particular category to avoid reporting the exact number of clients in that category. In addition, Section 5.K.(2) in Schedule D will not require investment advisers to report the number of separately managed accounts. We believe that these changes mitigate the risk of any client-specific information being disclosed. In addition, as we discussed in Section II.A., this information would be reported for one or two data points per year, depending on the amount of regulatory assets under management attributable to separately managed accounts, ninety days after the end of the adviser's fiscal year, and only on an aggregate basis for all the separately managed account clients that an adviser manages. Given the limited number of data points that advisers to separately managed accounts must report on, the fact that the information is reported in aggregate across an adviser's separately managed accounts, and the time lag between those data points and any public reporting, we do not believe that this reporting could compromise trading strategies.

In the Proposing Release, we also discussed other alternatives. For example, we could have required different information regarding separately managed account regulatory assets under management such as information at different time intervals or with different asset categories. We have determined not to require reporting at a higher frequency or in a more granular manner, because, as discussed above, we believe that the information we are requiring today will appropriately enhance our staff's ability to effectively carry out our risk-based examination program and other risk assessment and monitoring activities, and that more frequent or granular reporting requirements may increase the costs to investment advisers to report the information. One commenter suggested as an alternative a separate form for separately managed account reporting that would be filed on a confidential basis, but, as discussed above, we believe that given the changes discussed above, we have mitigated concerns about client confidentiality.

We proposed to require at least some information about separately managed accounts from all advisers, and additional information from advisers with at least $150 million in regulatory assets under management. In response to commenters who requested modifications to alleviate potential reporting burdens on smaller advisers relative to the proposal, we are adopting amendments that require less information about separately managed accounts than what was proposed for investment advisers managing at least $150 and less than $500 million in regulatory assets.[315] Another alternative would be to require, as proposed, investment advisers with at least $150 million in separately managed account regulatory assets under management to provide this additional information regarding these accounts. However, the higher threshold we are adopting will reduce the number of investment advisers required to provide this additional information by approximately 2,800 advisers, thereby reducing costs for those advisers with at least $150 million but less than $500 million in assets under management that would no longer have to report the additional information. As discussed in Section II.A.1.c., the $500 million threshold was suggested by commenters and will provide us information with respect to over 98% of the separately managed account assets that would have been reported under the proposed approach.[316]

Another alternative would be to collect different information regarding derivatives in separately managed accounts. For example, commenters raised concerns about the utility of gross notional exposure as a measure of derivative risk exposures. Several commenters stated that gross notional metrics are not accurate measures of risk or leverage,[317] and expressed concern that gross notional metrics could be misleading to or misunderstood by investors without additional context.[318] Other commenters suggested alternative measures of derivative risk exposures.[319] We recognize that gross notional metrics do not always reflect the way in which derivatives are used in a separately managed account and are not a risk measure, but rather they are commonly used metrics that are comparable to information collected in Form PF regarding private funds. On balance, therefore, we continue to believe that, for most types of derivatives the gross notional metrics generally provide a measure of the scale of an account's derivatives activities that is sufficient for this regulatory purpose, which is to collect information about the scale of an account's derivatives activities, rather than to collect specific risk metrics or more granular information regarding the ways in which derivatives are used in a separate account.[320]

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[311] *See supra* Section II.A.1.e.

[312] AIMA Letter; BlackRock Letter; IAA Letter; Invesco Letter; NYSBA Committee Letter; Oppenheimer Letter; PEGCC Letter; Shearman Letter; SIFMA Letter. One commenter suggested that investors may instead invest in a fund structure, or forego investment opportunities with an investment adviser altogether, rather than place assets in a separately managed account and risk the disclosure of separately managed account information. Schulte Letter. As discussed above, the modifications from the proposal should reduce the potential for the disclosure of private or sensitive information relating to separately managed accounts, and should alleviate potential investor concerns and the effect of the disclosure on their investment decisions.

[313] ABA Committee Letter; Dechert Letter; IAA Letter; Invesco Letter; MFA Letter; NYSBA Committee Letter; Oppenheimer Letter; Schulte Letter; Shearman Letter; SIFMA Letter.

[314] Also, investment advisers will be required to report the total dollar amount of borrowings that correspond to ranges of gross notional exposure and not the weighted average amount. *See supra* Section II.A.1.c.

[315] *See supra* Section II.A.1.c.

[316] *See* IAA Letter; NYSBA Committee Letter; Schwab & Co. Letter.

[317] *See* BlackRock Letter; Dechert Letter; IAA Letter; MFA Letter.

[318] *See* Dechert Letter; IAA Letter; Invesco Letter; MFA Letter; NYSBA Committee Letter.

[319] *See* AIMA Letter; BlackRock Letter; Dechert Letter.

We are also adopting, as proposed, amendments that will require investment advisers to report the identity of the custodians that account for at least ten percent of each adviser's total separately managed account regulatory assets under management, and the amount held at such custodians. As discussed in the Proposing Release,[321] alternatives to the custodian reporting requirements include collecting different information, changing reporting thresholds, changing the frequency of reporting, obtaining information from other parties and not requiring certain information, such as the location of the custodian's office.[322] Although requiring less information would decrease the reporting requirements and the costs to investment advisers to file Form ADV, as discussed above, we believe that the reporting requirements as adopted will provide information important to us and improve the ability of our examination staff to identify advisers whose clients use the same custodian in the event a concern is raised about a particular custodian. One commenter suggested that we should collect data about custodians of separately managed accounts from the custodians themselves, but considering that the Commission does not directly regulate all custodians (including banks), we do not think this alternative appropriately addresses our regulatory objective.

b. Additional Information Regarding Investment Advisers

In addition to information regarding separately managed accounts, we are also adopting amendments to collect additional information about the business of investment advisers and other additional identifying information. For example, we are adopting amendments to require investment advisers to disclose information regarding their use of social media platforms. We are also adopting amendments to request additional information about an adviser's participation in and assets under management attributable to wrap fee programs. Other amendments include replacing ranges with more precise information about the number of advisory clients and the amount of assets under management, the total number of offices that conduct investment advisory business, and information regarding each adviser's top twenty-five largest offices in terms of numbers of employees. For several items we are requiring additional identifying information. The additional identifying information includes the CIK Numbers for all advisers that have obtained one or more such numbers, PCAOB-assigned numbers for auditing firms, and the SEC file number and the CRD number for sponsors of wrap fee programs.

We believe the additional information describing the adviser's business and the additional identifying information will be useful to the risk assessment, examination, and oversight of investment advisers. For example, the information regarding social media platforms will improve our understanding of how advisers use social media to communicate with current and potential clients. The additional identifying information will improve the ability of our staff and other current and future users of Form ADV information to cross-reference information from Form ADV with information from filings and other sources to investigate and obtain a more complete understanding of the business and relationships of investment advisers, and improve our oversight of investment advisers. In addition, to the extent that current and future investment advisory clients are interested in the information, the information may improve their ability to make informed decisions about the selection and retention of investment advisers.

Several commenters expressed concern that the additional information describing the advisory business and the additional identifying information would increase the burden on investment advisers to file Form ADV.[323] In addition, commenters questioned the benefits of the additional information and the additional identifying information to clients or potential clients and to the Commission. For example, one commenter raised concern regarding the usefulness of replacing ranges with the number of advisory clients and the regulatory assets under management attributable to each client type.[324] In addition, commenters believed that information regarding social media would not be informative to investors, who may be more likely to obtain the information through the adviser's Web site or internet searches.[325] Several commenters also expressed concern that the reporting of adviser offices would impose a significant burden on advisers with little or no benefit to either the Commission or investors.[326]

Alternatives to the amendments regarding disclosure of additional information about advisers include the disclosure of different information, more information, or less information on topics such as social media or advisers' offices.[327] When determining the specific amendments to Form ADV for adoption, we considered what information would be important for our oversight activities and for advisory clients and prospective clients to make decisions regarding the selection or retention of investment advisers against the costs to investment advisers to report this information. We believe that the amendments we are adopting today strike an appropriate balance of providing important information to the Commission, advisory clients and prospective clients while mitigating the burden on investment advisers to report the information. As noted above, however, we recognize that the burden on some large advisers might be significant, especially in the initial reporting cycle when they are required to report the additional information for the first time. However, we believe that the burden will decrease after the initial filing because in subsequent filings, advisers will only be reporting changes to their previously reported information.

Another alternative to the amendments to Form ADV would be for us not to require investment advisers to report additional information but instead for us to undertake targeted examinations of investment advisers. We believe it is more efficient to compile information about advisers that can then be utilized to identify specific advisers for examinations. An absence of information about advisers also would reduce our ability to identify industry trends and assess risks.

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[320] *See supra* Section II.A.1.c.

[321] *See* Proposing Release, *supra* footnote 3 at Section II.A.1.

[322] *See* AIMA Letter; IAA Letter; MMI Letter; NRS Letter; Oppenheimer Letter; SIFMA Letter regarding the custodian's office location. *See also supra* Section II.A.1.d.

[323] Several commenters stated that advisers would need to update computer systems to obtain this data, and raised concerns about the increased burden that our proposal would place on advisers. ASG Letter; IAA Letter; LPL Letter; MMI Letter. Commenters also expressed concerns that investment advisers would need to update the additional information on more than an annual basis which would increase the burden on investment advisers. *See* BlackRock Letter; Morningstar Letter; NRS Letter; SIFMA Letter. We have clarified that certain information, such as information about additional offices, must only be updated on an annual basis, which should help address these concerns.

[324] ACG Letter.

[325] ASG Letter; JAG Letter; Morgan Letter; Morningstar Letter; NRS Letter; NYSBA Committee Letter.

[326] ACG Letter; CFA Letter; Morningstar Letter; NRS Letter; NYSBA Committee Letter.

[327] *See supra* footnote 111 and accompanying text.

c. Costs Applicable to Reporting Information Regarding Separately Managed Accounts and Additional Information on Form ADV

The amendments that will require investment advisers to provide additional information about certain aspects of their business will impose additional costs, at least initially, for investment advisers to file Form ADV, but we believe based on our experience that much of the information we are requiring is readily available because it is used by investment advisers to conduct their business. Costs will vary across advisers, depending on the nature and size of an adviser's business.[328] For example, advisers that manage a limited number of separately managed accounts or that have smaller amounts of assets under management in those accounts will have fewer reporting requirements than advisers that manage a large number of separately managed accounts or that have larger amounts of assets under management in those accounts. In addition, investment advisers with a larger number of offices will have greater reporting requirements than investment advisers with fewer offices, particularly in the case of the initial filing. The one-time costs to initially report the information on Form ADV will also be greater for those investment advisers that currently do not collect or maintain the information. In addition, some amendments to Form ADV will require information that will impose a fixed filing cost that is not scalable with size, and therefore will have a relatively greater impact on small investment advisers.

To the extent possible, we have attempted to quantify the costs of these amendments to Form ADV. Certain commenters questioned the cost estimates of the amendments to Form ADV, and some commenters noted that advisers will have to create new systems or processes to capture the additional information required and that the Commission underestimated these costs.[329] We believe that much of the information, such as regulatory assets under management, should be readily available to advisers, and that modifications to the proposed amendments, such as the reporting requirements relating to separately managed accounts, help mitigate the costs to investment advisers of reporting the additional information. As discussed in Section V., for purposes of the increased Paperwork Reduction Act ("PRA") burden for Form ADV, we estimate that each adviser will incur average costs in connection with the amendments to Form ADV of approximately $1,273,[330] for a total aggregate cost of $15,306,552.[331]

d. Umbrella Registration

The amendments to Form ADV that will incorporate the concept of umbrella registration and establish a method on Form ADV for certain private fund advisers to use umbrella registration will simplify, and therefore make more efficient the filing procedures for these advisers and provide greater certainty about the availability of umbrella registration. The amendments will also improve the consistency and quality of the information that private fund advisers disclose about their business and provide a more complete picture of groups of private fund advisers that operate as a single business, thus allowing for greater comparability across private fund advisers that rely on umbrella registration.[332] As of May 16, 2016, approximately 743 registered advisers indicated on Form ADV that they relied on the 2012 ABA Letter. Additional advisers may be eligible to use umbrella registration but do not currently do so.

Several commenters suggested that the Commission expand the eligibility for umbrella registration to even more advisers. For example, many commenters recommended expanding eligibility for umbrella registration to non-U.S. filing advisers,[333] and other commenters suggested expanding eligibility for umbrella registration to exempt reporting advisers.[334] Other commenters recommended that we expand the eligibility for umbrella registration to apply to all related persons of a filing adviser.[335] Although expanding the eligibility for umbrella registration to all related persons might decrease the aggregate costs of filing Form ADV, as we discussed above, we do not believe umbrella registration is appropriate for advisers that are related but that operate separate advisory businesses as it would compromise data quality and complicate analyses that rely on data from Form ADV.

For purposes of the PRA, we estimate that each adviser that files Schedule R will incur average costs of approximately $255,[336] for a total aggregate cost of $189,465.[337] We do not believe the amendments to provide for umbrella registration will impose significant costs on investment advisers because advisers currently relying on the 2012 ABA Letter are already reporting much of the information that will be reported on Schedule R. We believe that the additional information that will be reported for relying advisers on Schedule R, such as the basis for SEC registration and form of organization, will be readily available to filing advisers.[338]

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[328] Several commenters expressed concern that the proposed amendments would increase the costs for small advisers. *See* Comment Letter of Adrian Day Asset Management (May 21, 2015) ("Adrian Day Letter"); AIMA Letter; Diercks Letter; IAA Letter; SBIA Letter; Schwab & Co. Letter. For a discussion of these comments, please see the Final Regulatory Flexibility Analysis in Section V *infra*.

[329] Adrian Day Letter; Financial Engines Letter; IAA Letter; NRS Letter; PCA Letter; SBIA Letter. One commenter noted that it would require significant systems work to aggregate gross notional exposure calculations at the investment adviser level. SIFMA II Letter. Other commenters also noted that investment advisers would need to modify or update computer software systems. ASG Letter; MMI Letter.

[330] We estimate that each adviser will spend, on average, 3 hours to complete the questions regarding separately managed accounts. We further estimate that the amendments to Part 1A that request other additional information will take each adviser, on average, 2 hours to complete. As a result, we estimate a 5 hour increase in the total average time burden related to the amendments to Form ADV. We expect that the performance of this function will most likely be equally allocated between a senior compliance examiner and a compliance manager. Data from the Securities Industry Financial Markets Association's *Management & Professional Earnings in the Securities Industry 2013* ("SIFMA *Management and Professional Earnings Report*"), modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, suggest that costs for a senior compliance examiner and a compliance manager are $221 and $288 per hour, respectively. [2.5 hours × $221 = $553] + [2.5 hours × $288 = $720] = $1,273.

[331] 12,024 advisers × $1,273 = $15,306,552.

[332] *See supra* Section II.A.3.

[333] ABA Committee Letter; AIMA Letter; Dechert Letter; NYSBA Committee Letter; Schulte Letter; Shearman Letter.

[334] ABA Committee Letter; ACG Letter; AIMA Letter; ASG Letter; MFA Letter; NYSBA Committee Letter; SBIA Letter; Schulte Letter; Shearman Letter.

[335] ACG Letter; Capital Research Letter; Dechert Letter; Morgan Letter; NRS Letter; NYSBA Committee Letter.

[336] We estimate that for purposes of the PRA, the filing adviser will spend on average 1 hour completing Schedule R on behalf of its relying advisers. We expect that the performance of this function will most likely be equally allocated between a senior compliance examiner and a compliance manager. Data from the SIFMA *Management and Professional Earnings Report*, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead, suggest that costs for a senior compliance examiner and a compliance manager are $221 and $288 per hour, respectively. (.5 hours × $221 = $111) + (.5 hours × $288 = $144) = $255.

[337] 743 advisers × $255 = $189,465.

[338] One commenter was concerned that relying advisers would in effect be forced to share the details of employee compensation on a public filing. *See* Shearman Letter. The ownership information required of relying advisers, however, is consistent with the ownership information currently required of filing advisers.

e. Clarifying, Technical and Other Amendments to Form ADV

The clarifying, technical and other amendments to Form ADV will make the filing process clearer and therefore more efficient for advisers, and increase the reliability and the consistency of information provided by investment advisers. More reliable and consistent information will improve our staff's ability to interpret and evaluate the information provided by advisers, make comparisons across investment advisers, and better identify the investment advisers that may need additional outreach or examination. To the extent the clarifying and technical amendments we adopt today would make Form ADV easier to understand and complete, the amendments will decrease future filing costs, especially for those investment advisers registering with us for the first time.

As proposed, we are adding questions to Form ADV that request an entity's legal entity identifier, if any.[339] As discussed above, the legal entity identifier is a unique identifier associated with a single entity and is intended to provide a uniform international standard for identifying parties to financial transactions. This information will help our examination staff more readily identify the use of particular custodians by separately managed accounts and private funds. Furthermore, the reporting of legal entity identifier information on Form ADV facilitates the ability of investors and the Commission to link the data reported with data from other filings or sources that is reported elsewhere as legal entity identifiers become more widely used by regulators and the financial industry. For example, this could aid in the performance of market analysis studies, surveillance activities, and systemic risk monitoring by the Commission.[340]

We do not believe that the clarifying, technical and other amendments to Form ADV will result in any additional costs for investment advisers and could result in some cost savings to the extent that advisers have fewer questions to research when completing the form. We have identified provisions of Form ADV that have caused confusion among filers in the past or that have resulted in inconsistent or unreliable information. As we discussed above, we believe that the clarifications and revisions to the questions and instructions of Form ADV will increase the efficiency of investment advisers to disclose information, and our ability to oversee investment advisers. Finally, given the nature of the clarifying, technical and other amendments to Form ADV that we are adopting today, we do not believe that these amendments will have an impact on capital formation or competition in the asset management industry or the markets in general.

f. Exempt Reporting Advisers

We believe the amendments to Form ADV will have a limited economic effect on exempt reporting advisers, including on their costs.[341] Exempt reporting advisers are currently required to complete only a limited number of items in Part 1A of Form ADV (consisting of Items 1, 2.B., 3, 6, 7, 10, 11 and corresponding schedules). We are adopting limited amendments to the items that exempt reporting advisers are required to complete, including the amendments to Item 1 regarding the use of social media and the reporting of information on up to 25 offices.[342] We do not know the extent of social media use by exempt reporting advisers, and we recognize that these advisers will incur some costs associated with social media account reporting. We believe these costs will be limited based on the nature of exempt reporting adviser clients, which include venture capital funds and private funds. Approximately 15 of the approximately 3,248 exempt reporting advisers that file information with the Commission on Form ADV reported that they had five or more other offices. Thus, although exempt reporting advisers will incur costs to report the additional information, based on our staff's experience and given the nature of the clients these funds advise, we expect that the amendments should result in a limited increase in reporting costs relative to other advisers.

C. Amendments to Investment Advisers Act Rules

As discussed above, we are adopting amendments to the Advisers Act books and records rule, and technical amendments to several other rules to remove transition provisions where the transition process is complete. The discussion below focuses on the amendments to the Advisers Act books and records rule, because the technical amendments are clarifying or ministerial in nature and therefore should have little, if any, economic effects.

The amendments to rule 204–2 will require investment advisers to maintain additional materials related to the calculation and distribution of performance information. The amendments to rule 204–2(a)(16) will require each adviser to maintain the materials listed in rule 204–2(a)(16) that demonstrate the calculation of the performance or rate of return in any communication that the adviser circulates or distributes, directly or indirectly, to any person, rather than ten or more persons as currently required by the rule. The amendments to rule 204–2(a)(7) will require each adviser to maintain originals of all written communications received and copies of written communications sent by the adviser relating to the performance or rate of return of any or all managed accounts or securities recommendations. We believe, based on our staff's experience, and several commenters agreed, that most investment advisers currently maintain the information that will be required to be maintained under amended rule 204–2.[343] Under the amendments, each respondent will be required to retain records in the same manner and for the same period of time as currently required under rule 204–2.

1. Economic Baseline and Affected Market Participants

As noted above, the regulatory regime as it exists today for investment advisers serves as the economic baseline against which the costs and benefits, as well as the impact on efficiency, competition, and capital formation, of the amendments to the Advisers Act books and records rule (rule 204–2) will be evaluated. The parties that will be directly affected by the amendments to rules under the Advisers Act include: Investment advisers registered with the Commission; the Commission; and current and future investment advisory clients. As discussed above, approximately 12,024 investment advisers are currently registered with the Commission.

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[339] Amended Form ADV, Part 1A, Schedule D, Sections 5.K.(3)(f) (requesting the LEI, if any, for a custodian of separately managed accounts that is not a broker-dealer or that is a broker-dealer but does not have an SEC registration number) and 7.B.(1), Question 25g (similar question for private fund custodians); Schedule R, Section 1.G. (requesting LEI for relying adviser).

[340] We note that, as of May 31, 2016, approximately 6.80% of all registered investment advisers report a legal entity identifier when filing Form ADV.

[341] *See supra* Section II.A.2.c. for a discussion of exempt reporting advisers and Amended Form ADV, Part 1A, Schedule D, Section 7.B.(1), Question 15(b).

[342] Exempt reporting advisers will not be eligible to file new Schedule R.

[343] ABA Committee Letter; Morningstar Letter; PCA Letter.

2. Analysis of the Effects of the Amendments to the Advisers Act Books and Records Rule

The amendments to the Advisers Act books and records rule (rule 204–2) will benefit the clients and prospective clients of investment advisers by improving our ability to oversee investment advisers and making available to our examination staff all records necessary to evaluate performance information.

The amendments to the books and records rule will provide our enforcement and examination staff with additional information to review an adviser's performance communications, regardless of the number of clients or prospective clients that receive performance communications. The rule amendments may increase investor protection by increasing the disincentive for misleading or fraudulent communications, which may reduce incidents of fraud. In addition, investors may benefit from the amendments to the recordkeeping rule as these records will assist our staff in uncovering fraudulent or misleading communications regarding performance.

As we discussed in the Proposing Release, to the extent that the amendments to the rule reduce misleading or fraudulent communications, the competitive position of investment advisers could be improved because clients and potential clients will receive more accurate information regarding an adviser's performance and thus will be better able to differentiate among advisers.[344] In addition, to the extent that the amendments to the rule improve the ability of clients and potential clients to differentiate among advisers, potential clients may be more likely to obtain investment advice from an investment adviser, which will increase the ability of investment advisers to compete for investor capital. The amendments could improve the ability of investors to better or more efficiently allocate capital across investments to the extent that the current allocation of capital is based on misleading or fraudulent information, which in turn could promote capital formation.

An alternative suggested by several commenters would be to exclude from the rule one-on-one communications that are "customized responses from investors or one-on-one communications with sophisticated investors or clients" about their own account performance.[345] Another alternative would be to require maintenance of records supporting performance claims in communications that are distributed or circulated to less than the current threshold of ten persons. As discussed above, we believe the veracity of performance information is important regardless of whether it is a personalized client communication or in an advertisement sent to ten or more persons, and the absence of such records can reduce our ability to examine and monitor advisers.[346]

Several commenters felt the proposed amendments would be unnecessary and a burden on investment advisers. Some raised concerns regarding the potential burden to comply with the amendments to rule 204–2,[347] and one commenter noted that while the amendments were not themselves burdensome, when aggregated with other recordkeeping obligations, could lead to overall compliance burdens for smaller advisers.[348] Based on our staff's experience and our analysis of the comments to the Proposing Release, however, we believe that most advisers already maintain this information.[349] We also believe that this information is useful to the examination and oversight of advisers.[350]

We estimate that, for purposes of the PRA, advisers will incur an aggregate cost of approximately $1,071,338 per year for the total hours advisory personnel will spend in complying with the amended recordkeeping requirements.[351] A possible non-quantifiable cost as a result of the amended recordkeeping requirements will be discouraging advisers from creating and communicating custom performance information to individual clients, who will then lose the benefit of having that information available to them. Although we believe that such a response to the rule will be unlikely, a decrease in communications could reduce the ability of clients and potential clients to compare advisers and potentially decrease competition.

We expect that these costs will vary among firms, depending on a number of factors, including the degree to which advisers already maintain correspondence, performance information, and the inputs and worksheets used to generate performance information. Compliance costs also will vary depending on the degree to which performance figure determination and the recordkeeping process is automated, and the amount of updating to the adviser's recordkeeping policy that will be required.

V. Paperwork Reduction Act Analysis

The amendments that we are adopting today contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA").[352] In the Proposing Release, we solicited comment on the proposed collection of information requirements. We also submitted the proposed collections of information to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507 and 5 CFR 1320.11. The titles for the collections of information we are amending are: (i) "Form ADV;" and (ii) "Rule 204–2 under the Investment Advisers Act of 1940." An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

A. Form ADV

Form ADV (OMB Control No. 3235–0049) is the two-part investment adviser registration form. Part 1 of Form ADV contains information used primarily by Commission staff, and Part 2 is the client brochure. We are not adopting changes to Part 2. We use the information to determine eligibility for registration with us and to manage our regulatory and examination programs. Clients use certain of the information to determine whether to hire or retain an adviser. The collection of information is necessary to provide advisory clients, prospective clients, and the Commission with information about the adviser and its business, conflicts of interest and personnel. Rule 203–1 under the Advisers Act requires every person applying for investment adviser registration with the Commission to file Form ADV. Rule 204–4 under the

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[344] Proposing Release, *supra* footnote 3 at Section III.C.2.

[345] PEGCC Letter. *See also* Berlin Letter; LPL Letter.

[346] *See supra* Section II.B.1.

[347] *See* ACG Letter; Anonymous Letter; ASG Letter; NRS Letter; PEGCC Letter; SBIA Letter.

[348] SBIA Letter.

[349] ABA Committee Letter; Morningstar Letter; PCA Letter.

[350] *See, e.g.*, ABA Committee Letter; Morningstar Letter; PCA Letter. *See also* IAA Letter.

[351] We estimate that for purposes of the PRA, the amendments to rule 204–2 will increase the burden by 1.5 hours per adviser annually. We expect that the function of recording and maintaining records of performance information and communications will be performed by a combination of compliance clerks and general clerks at a cost of $65 per hour and $58 per hour, respectively. We anticipate that compliance clerks would perform an estimated 0.3 hours of the work created by the amendments to rule 204–2 and general clerks would perform the additional 1.2 hours. Therefore, the total cost per adviser would be (0.3 hours × $65 = $19.50) + (1.2 hours × $58 = $69.60) = approximately $89.10 for a total cost of $1,071,338 (12,024 advisers × $89.10).

[352] 44 U.S.C. 3501–3520.

Advisers Act requires certain investment advisers exempt from registration with the Commission ("exempt reporting advisers") to file reports with the Commission by completing a limited number of items on Form ADV. Rule 204–1 under the Advisers Act requires each registered and exempt reporting adviser to file amendments to Form ADV at least annually, and requires advisers to submit electronic filings through the IARD. The paperwork burdens associated with rules 203–1, 204–1, and 204–4 are included in the approved annual burden associated with Form ADV and thus do not entail separate collections of information.

These collections of information are found at 17 CFR 275.203–1, 275.204–1, 275.204–4 and 275.279.1 and are mandatory. Responses are not kept confidential. The respondents are investment advisers registered with the Commission or applying for registration with the Commission and exempt reporting advisers. Based on IARD system data as of May 16, 2016, approximately 12,024 investment advisers are registered with the Commission, and 3,248 exempt reporting advisers file reports with the Commission.

The currently approved total annual aggregate burden estimate for all advisers completing, amending and filing Form ADV (Part 1 and Part 2) with the Commission is 154,402 hours with a monetized cost of $36,670,427. This collection is based on: (i) Total annual collection of information burden for SEC-registered advisers to file and complete Form ADV (Part 1 and Part 2), including private fund reporting, plus the burden associated with amendments to the form, preparing brochure supplements and delivering codes of ethics to clients; and (ii) the total annual collection of information burden for exempt reporting advisers to file and complete the required items of Part 1A of Form ADV, including the private fund reporting, plus the burden associated with amendments to the form.

As discussed above, we are adopting amendments to Form ADV that are designed to provide additional information about investment advisers and their clients, including clients in separately managed accounts, provide for umbrella registration for private fund advisers and clarify and address technical and other issues in certain Form ADV items and instructions. The amendments we are adopting will increase the information requested in Part 1A of Form ADV, and we expect that this will correspondingly increase the average burden on an adviser filing Form ADV.

As discussed in Sections II.A. and II.B. of this Release, we received several comments that addressed whether the amendments to Form ADV and Rule 204–2 are necessary, whether there are ways to enhance the quality, utility, and clarity of the information to be collected, and whether we could further minimize the burden. Certain commenters addressed the accuracy of our burden estimates for the proposed collections of information, suggesting in general that our estimates were too low.[353] We have considered these comments and have made certain modifications designed to address these and other comments received, and we are increasing our PRA burden estimates related to the amendments.

We discuss below, in three subsections, the estimated revised collection of information requirements for Form ADV: First, we provide estimates for the revised burdens resulting from the amendments to Part 1A; second, we determine how those estimates will be reflected in the annual burden attributable to Form ADV; and third, we calculate the total revised burdens associated with Form ADV. The paperwork burdens of filing an amended Form ADV, Part 1A will vary among advisers, depending on factors such as the size of the adviser, the complexity of its operations, and the number or extent of its affiliations.

1. Changes in Average Burden Estimates

As a result of the differing burdens on advisers to complete Form ADV, we have divided the effect of the amendments to the form into three subsections; first we address the change to the collection of information for registered advisers as a result of our amendments to Part 1A of Form ADV excluding those changes related to private funds; second, we discuss the amendments to Form ADV related to registered advisers to private funds, including the amendments to Section 7.B. of Schedule D and the new Schedule R that will implement umbrella registration; and third, we address the amendments to Form ADV affecting exempt reporting advisers.

a. Estimated Change in Burden Related to Part 1A Amendments (Not Including Private Fund Reporting)

We are adopting amendments to Part 1A, some of which are merely technical changes or very simple in nature, and others that will require more time for an adviser to prepare a response. Advisers should have ready access to all the information necessary to respond to the items we are adopting today in their normal course of operations, because they likely maintain and use the requested information in connection with managing client assets. We anticipate that the responses to many of the questions will be unlikely to change from year to year, which will minimize the ongoing reporting burden associated with these questions.

i. Amendments Related to Reporting of Separately Managed Account Information

The amendments to Part 1A, Items 5.K.(1), 5.K.(2), 5.K.(3) and 5.K.(4) and Schedule D, Sections 5.K.(1), 5.K.(2) and 5.K.(3) are designed to collect information about the separately managed accounts managed by advisers. These amendments will enhance existing information we receive and permit us to conduct more robust risk monitoring with respect to advisers of separately managed accounts. As discussed above, the information collected about separately managed accounts will include regulatory assets under management reported by asset type, borrowings and derivatives information, and the identity of custodians that hold at least ten percent of separately managed account regulatory assets under management. We believe that advisers to separately managed accounts may maintain and use this or similar information for operational reasons (*e.g.,* trading systems) and for customary account reporting to clients in separately managed accounts.

Although we understand that much of the requested information may be used by advisers for operational reasons or account reporting, we expect that these amendments may subject advisers, particularly those that advise a large number of separately managed accounts and engage in borrowings and derivatives transactions on behalf of separately managed accounts, to an increased paperwork burden. We are adopting new Items 5.K.(1) through (4) and Sections 5.K.(1) and 5.K.(3) largely as proposed with certain modifications in response to comments we received. With respect to Section 5.K.(2), in order to minimize the burden on advisers with a smaller amount of separately managed account assets under management, we initially proposed to require: (1) Advisers with regulatory assets under management attributable to separately managed accounts of at least $150 million but less than $10 billion to report borrowings and derivatives information as of the date the adviser calculates its regulatory assets under management for purposes of its annual updating amendment; and (2) advisers with regulatory assets under management attributable to separately managed accounts of at least $10 billion to report information as of that date and six months before that date. As we discussed above,[354] at the suggestion of several commenters,[355] we increased the proposed $150 million reporting threshold to $500 million in order to further alleviate the reporting burdens on smaller advisers without compromising our objectives.[356] In response to commenters, we modified Section 5.K.(2) to base the reporting of borrowings and derivatives on regulatory assets under management in separately managed accounts, rather than the net asset value of the accounts, as proposed, because advisers may not characterize their separately managed accounts using net asset value.[357] We also eliminated the requirement to report number of accounts. We believe that these changes will further decrease the burden on advisers to report information on separately managed accounts.

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[353] ACG Letter; Adrian Day Letter; ASG Letter; Anonymous Letter; IAA Letter; NRS Letter; PEGCC Letter; PCA Letter; SBIA Letter. *See also* AIMA Letter (discussed reputational and marketing costs associated with separately managed account reporting).

In the Proposing Release, we estimated that each adviser would spend, on average, 2 hours completing the questions regarding separately managed accounts in the first year a new or existing investment adviser completes these questions.[358] A number of commenters expressed concern that our estimate of the paperwork burdens associated with our proposed questions regarding separately managed accounts was too low.[359] We are revising our estimate of the time that that it will take each adviser to complete the questions regarding separately managed accounts in the first year a new or existing adviser completes these questions from 2 hours to 3 hours.[360] We have arrived at this burden estimate by considering the following: (1) The changes we are making to Part 1A, Items 5.K.(1), 5.K.(2), 5.K.(3) and 5.K.(4) and Schedule D, Sections 5.K.(1), 5.K.(2) and 5.K.(3); (2) our efforts to further alleviate the reporting burden on advisers that manage a smaller amount of separately managed account regulatory assets under management; and (3) the comments we received on our proposed burden estimate. We recognize that burdens will vary across advisers. Advisers that advise a large number of separately managed accounts, or that have significant regulatory assets under management attributable to separately managed accounts, will incur a greater burden than advisers that have no separately managed account clients or a limited number of such clients. Based on our review of advisers' separately managed account business and the new reporting requirements, we believe that, on average, 3 hours is an appropriate estimate.

ii. Other Additional Information Regarding Investment Advisers

We are adding several new questions and amending existing questions on Form ADV regarding an adviser's identifying information, advisory business, and financial industry affiliations. The revised questions primarily refine or expand existing questions or request information we believe that advisers already have for compliance purposes. For example, we are requiring each adviser to provide CIK Numbers if it has one or more such numbers and to provide the address of each of the adviser's social media pages. Other questions require advisers to provide readily available or easily accessible information, such as the amendment to Part IA, Item 1.O. that requires advisers to report their assets within ranges. However, some of the revised questions may take longer for advisers to complete, such as the amendments to Schedule D, Section 1.F that require information about an adviser's 25 largest offices other than its principal office and place of business. While this information should be readily available to an adviser because it should be aware of its offices, a clerk will be required to manually enter expanded information about the adviser's offices in the first year the adviser responds to the item and then make updates in subsequent years. Some commenters thought that additional office reporting would be a significant burden on advisers.[361] As discussed above in Section II.A.2.a., we recognize that the burden on some large advisers might be significant, especially in the initial reporting cycle when they are required to report their additional offices for the first time. However, we believe that the burden will decrease after the initial filing because in subsequent filings, advisers will only be reporting changes to their previously reported additional office information. We have clarified that advisers will only be required to update the information in Section 1.F. on an annual basis, which should help address some of the concerns raised by commenters about the burden associated with this amendment.[362]

We are adopting a number of amendments to Item 5 in addition to the questions relating to separately managed accounts discussed above. Like other new or revised items, we believe several of these new Item 5 questions will require advisers to provide readily available information, such as the number of clients and regulatory assets under management attributable to each category of clients during the last fiscal year. Advisers currently provide this information in ranges, and therefore likely already have available to them the more precise numbers to report. In addition, information such as whether the adviser uses different assets under management numbers in Part 1A vs. Part 2A of Form ADV should be readily available. Other revised items will likely present greater burdens for some advisers but not others, depending on the nature and complexity of their businesses. For instance, the burden associated with the revised disclosure regarding wrap fee programs or non-U.S. clients will depend on whether and to what extent an adviser allocates client assets to wrap fee programs or the extent to which the adviser has non-U.S. clients.

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[354] *Supra* Section II.A.1.

[355] IAA Letter; NYSBA Committee Letter; Schwab & Co. Letter.

[356] Amended Form ADV, Part 1A, Schedule D, Section 5.K.(2).

[357] *See* IAA Letter.

[358] Proposing Release, *supra* footnote 3 at Section IV.A.1.a.i.

[359] Adrian Day Letter; ASG Letter (one adviser suggested that outsourcing the work might be costly; another adviser reported having the required data but estimated that it would take approximately 1 hour to compile data in response to Sections 5.K.1(a) and (b)); IAA Letter. *See* also NYSBA Committee Letter (the proposed amendments to Form ADV and the Advisers Act will significantly increase the reporting obligations for many advisers); NRS Letter (burden estimate for proposed amendments is completely unrealistic and extremely low); SIFMA II Letter (most exposure data is gathered at the client or account level and it would require significant systems work to aggregate these values at the adviser level).

[360] Based on IARD system data as of May 16, 2016, approximately 8,718 registered investment advisers, or approximately 73% of all investment advisers registered with us, reported assets under management from clients other than registered investment companies, business development companies and pooled investment vehicles, indicating that they have assets under management attributable to separately managed accounts. Of those approximately 8,718 advisers, we estimate that 2,538 (approximately 29%) reported at least $500 million and less than $10 billion in regulatory assets under management from separately managed accounts and 545 (approximately 6%) reported at least $10 billion in regulatory assets under management from separately managed account clients.

[361] ACG Letter; CFA Letter; Morningstar Letter (for larger advisers, additional office reporting would require substantial time, although that burden would ease after the initial reporting period); NYSBA Committee Letter.

[362] ASG Letter (updating additional office reporting more than annually would be burdensome); Morningstar Letter (the Commission should clarify how often additional office reporting needs to be updated).

In the Proposing Release, we estimated that the proposed revisions to Part 1A of Form ADV and Schedule D would take each adviser approximately 1 hour, on average, to complete in the first year a new or existing adviser responds to the questions.[363] Some commenters expressed concern that our burden estimate was too low,[364] while others expressed concern about the impact of the increased overall compliance burden on smaller advisers.[365] We are revising our estimate of the time that these amendments to Part 1A of Form ADV and Schedule D will take each adviser to complete in the first year a new or existing adviser responds to these questions from 1 hour to 2 hours. We have arrived at this revised burden estimate, in part, by considering the following: (1) The relative complexity and availability of the information required by the revised items to the current form and its approved burden; (2) the number and types of advisers affected by the proposed amendments; and (3) the comments we received on our proposed burden estimate. We understand that the burden will vary across advisers depending on their business and the factors discussed in this section. The burden for some advisers will exceed our estimate, and the burden for others will be less due to the nature of their business. We believe, on balance, that 2 hours is a reasonable estimate.

iii. Clarifying, Technical and Other Amendments

As discussed above, we are adopting several further amendments to Form ADV that are designed to clarify the Form and its instructions and address technical issues. These changes primarily refine existing questions. For example, we are deleting the phrase "newly formed adviser" from Part IA, Item 2.A.(9) because of questions from filers about whether that phrase refers to only newly formed corporate entities. Similarly, we are amending Part IA, Item 8.B.(2) to clarify that the question applies to any related person who recommends the adviser to advisory clients or acts as a purchaser representative. Because these amendments do not change the scope or amount of information required to be reported on Form ADV, we do not believe that these clarifying, technical, and other amendments to Part 1A of Form ADV will increase or decrease the average total collection of information burden for advisers in their first year filing Form ADV. We did not receive comments regarding reporting burdens associated with these technical and clarifying amendments.

As a result of the amendments to Form ADV Part 1A discussed above, including the amendments related to separately managed accounts, additional items, and technical and clarifying amendments, we estimate the average total collection of information burden will increase 5 hours to 45.74 hours per adviser for the first year that an adviser completes Form ADV (Part 1 and Part 2).[366]

b. Estimated Changes in Burden Related to Private Fund Reporting Requirements

We are adopting several amendments to Part 1A, Schedule D, Section 7.B. that will refine and enhance existing information we receive about advisers to private funds. In addition, as part of our codification of umbrella registration, we are adding a new schedule to Part 1A—Schedule R—to be submitted by advisers to private funds that use umbrella registration to file a single Form ADV. We believe the information required by the amendments to Part 1A, Schedule D, Section 7.B will be readily available or easily accessible to advisers to private funds. For example, the PCAOB assigned number for a private fund auditor should be readily available or easily accessible to that private fund's adviser. As discussed in Section II.A.2.c., we modified Part 1A, Schedule D, Section 7.B.(1). Question 15(b) regarding sales of private funds to qualified clients in response to commenters' concerns. The question is now limited to 3(c)(1) funds, and requires only a "yes" or "no" answer, rather than requiring advisers to report the percentage of a private fund held by qualified clients. Other amendments to Section 7.B. are designed to make the questions easier to answer, but do not cause a change in reporting burden, including moving certain "notes" to questions and changes to the current question regarding unqualified opinions. The currently approved total annual burden estimate for advisers making their initial filing in completing Item 7.B. and Schedule D, Section 7.B. is 1 hour per private fund. We do not estimate that the amendments to Schedule D, Section 7.B, including the changes from the proposal, will increase or decrease the total annual burden because the information is readily available to advisers. Most of the comments on the amendments to Part 1A, Schedule D, Section 7.B. concerned the qualified client question, Question 15(b), which we modified as discussed above.

The incorporation of umbrella registration into Form ADV will codify a staff position and provide a method for certain private fund advisers that operate as a single advisory business to file a single registration form. Umbrella registration will only be available if the filing adviser and each relying adviser advise only private funds and clients in separately managed accounts that are qualified clients, as defined in rule 205–3 under the Advisers Act, that are otherwise eligible to invest in the private funds advised by the filing or a relying adviser. The filing and relying advisers will also have to satisfy certain requirements, including that each relying adviser is controlled by or under common control with the filing adviser. There has been staff guidance for single registration under defined circumstances since 2012,[367] and the amendments to Form ADV will provide for umbrella registration and simplify the process of umbrella registration for advisers that operate as a single advisory business. We are adding a new schedule to Part 1A, Schedule R, that will need to be filed with respect to each relying adviser, as well as a new question to Schedule D, that will link a private fund reported on Form ADV to the specific (filing or relying) adviser that advises it. Schedule R will require identifying information, basis for Commission registration, and ownership information about each relying adviser.

We believe that much of the information we are requiring in

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[363] Proposing Release, *supra* footnote 3 at Section IV.A.1.a.ii.

[364] ASG Letter (amendments will increase the time required to prepare response to Item 5). *See* NYSBA Committee Letter (the proposed amendments to Form ADV and the Advisers Act will significantly increase the reporting obligations for many advisers); NRS Letter (burden estimate for proposed amendments is completely unrealistic and extremely low).

[365] PCA Letter (Commission grossly underestimated the potential cost for many advisers, particularly small advisers); SBIA Letter (Commission should consider the impact of the increased overall compliance burden on smaller private fund advisers).

[366] Currently approved estimate of the average total collection of information burden per SEC registered adviser for the first year that an adviser completes Form ADV (40.74 hours) + 3 hours to complete the questions about separately managed accounts + 2 hours to complete other additional information regarding investment advisers = 45.74 hours.

[367] *See* 2012 ABA Letter, *supra* footnote 5.

Schedule R will be readily available to private fund advisers because it is information that they are already reporting either on Form ADV filings for separate advisers or on a single Form ADV filing, in reliance on the staff guidance. Accordingly, although these new requirements will cause an increase in the information collected, the increased burden should largely be attributable to data entry and not data collection. Furthermore, some advisers who currently separately file Form ADV for each of their advisers may cumulatively have a reduced Form ADV burden by switching to umbrella registration. We also believe that new filing advisers using umbrella registration will readily have information available about their relying advisers, because they are operating as a single advisory business. In addition, filing advisers will be able to check a box indicating that the relying adviser's address is the same as the filing adviser, rather than provide the relying adviser's address. We did not receive comments on the burdens specific to Schedule R.

There is no currently approved annual burden estimate for completing Schedule R because it is a new Schedule. Taking into account the scope of information we are requesting, our understanding that much of the information is readily available and currently required on Form ADV, and the fact that private fund advisers that file an umbrella registration in reliance on staff guidance had on average three relying advisers,[368] we continue to estimate that advisers to private funds that elect to rely on umbrella registration will spend on average 1 hour per filing adviser completing new Schedule R for the first time.

c. Estimated Changes in Burden Related to Exempt Reporting Adviser Reporting Requirements

Exempt reporting advisers are required to complete a limited number of items in Part 1A of Form ADV (consisting of Items 1, 2.B., 3, 6, 7, 10, 11 and corresponding schedules), are not required to complete Part 2 and will not be eligible to file new Schedule R. The amendments to Part 1A will revise only Items 1 and 7 for exempt reporting advisers. We believe that most exempt reporting advisers are unlikely to be required to do additional reporting in response to the new requirements. In addition, the information required by these revisions should be readily available to any adviser as part of their ongoing operations and management of client assets.[369] For instance, we estimate that almost all exempt reporting advisers currently have five or fewer offices (the number of offices currently required by Form ADV) and thus will not have to provide information on additional offices.[370] Accordingly, we do not expect that the amendments will increase or decrease the currently approved total annual burden estimate of two hours per exempt reporting adviser initially completing these items on Form ADV, other than Item 7.B. We also do not expect that the amendments will increase or decrease the currently approved total annual burden estimate of 1 hour per private fund per exempt reporting adviser initially completing Item 7.B. and Section 7.B. of Schedule D.

2. Annual Burden Estimates

a. Estimated Annual Burden Applicable to All Registered Investment Advisers

i. Estimated Initial Hour Burden (Not Including Burden Applicable to Private Funds) for First Year Adviser To Complete Form ADV (Part 1 and Part 2)

We estimate that, as a result of the amendments to Form ADV Part 1A discussed above, other than those applicable to private funds, the average total collection of information burden per respondent will increase 5 hours to 45.74 hours per adviser for the first year that an adviser completes Form ADV (Part 1 and Part 2).

Approximately 12,024 investment advisers are currently registered with the Commission.[371] Not including private fund reporting, the estimated aggregate annual burden applicable to these advisers will be 549,978 hours[372] (60,120 hours of it attributable to the amendments).[373] As with the Commission's prior Paperwork Reduction Act estimates for Form ADV, we believe that most of the paperwork burden will be incurred in advisers' initial submission of the amended Form ADV, and that over time this burden will decrease substantially because the paperwork burden will be limited to updating information.[374] Amortizing the burden imposed by Form ADV over a three-year period to reflect the anticipated period of time that advisers will use the revised Form will result in an average annual burden of an estimated 183,326 hours per year[375] (20,040 hours per year of it attributable to the amendments),[376] or approximately 15.25 hours per year for each adviser currently registered with the Commission.[377]

Based on IARD system data, we estimate that there will be approximately 1,000 new investment advisers filing Form ADV with us annually. Therefore, we estimate that the total annual aggregate burden estimate applicable to these advisers for the first year that they complete Form ADV but excluding private fund reporting requirements is 45,740 hours (1,000 advisers × 45.74 hours). Amortizing the burden imposed by Form ADV for new registrants over a three-year period to reflect the anticipated period of time that advisers will use the revised Form will result in an average annual aggregate burden estimate of 15,247 hours per year[378] (1,667 of it attributable to the amendments).[379] We therefore estimate the total annual aggregate hour burden to be 198,573 hours per year.[380]

ii. Estimated Initial Hour Burden Applicable to Registered Advisers to Private Funds

The amount of time that a registered adviser managing private funds will incur to complete Item 7.B. and Section 7.B. of Schedule D will vary depending on the number of private funds the adviser manages. Of the advisers currently registered with us, we estimate that approximately 4,469 registered advisers advise a total of 30,896 private funds, and, on average, 300 Commission-registered advisers annually will make their initial filing with us reporting approximately 1,100 private funds.[381] The currently approved annual burden estimate for advisers making their initial filing in completing Item 7.B. and Schedule D, Section 7.B. is 1 hour per private fund. As a result, we estimate that the private fund reporting requirements that are applicable to registered investment advisers will add 31,996 hours to the overall annual aggregate burden estimate applicable to registered advisers.[382] As noted above, we believe most of the paperwork burden will be incurred in connection with advisers' initial submission of Form ADV, and that over time the burden will decrease substantially because it will be limited to updating (instead of compiling) information. Amortizing this burden over three years, as we did above with respect to the initial filing of the rest of the form, results in an annual aggregate average estimated burden of 10,665 hours per year.[383]

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[368] Based on IARD system data as of May 16, 2016, approximately 743 investment advisers rely on the 2012 ABA Letter to file Form ADV on behalf of themselves and 2,587 relying advisers, an average of approximately 3 relying advisers per filing adviser.

[369] One commenter suggested that it would be burdensome for exempt reporting advisers to begin collecting information on the qualified client status of their investors. As discussed above, we have made revisions to address this concern. SBIA Letter.

[370] Based on IARD system data as of May 16, 2016, approximately 15 exempt reporting advisers reported on Form ADV that they had five or more other offices.

[371] Based on IARD system data as of May 16, 2016. We include currently registered advisers in the estimated initial hour burden calculation because, for purposes of estimating burdens under the Paperwork Reduction Act, we assume that every new and existing registered adviser completes an initial registration in a three year period, which is the period after which estimates are required to be renewed.

[372] 45.74 hour per-adviser burden × 12,024 advisers = 549,978 hours.

[373] 5 hour per-adviser additional burden × 12,024 advisers = 60,120 hours.

[374] We discuss the burden for advisers making annual updating amendments to Form ADV in Section iii below.

[375] 549,978 hours/3 = 183,326 hours.

[376] 60,120 hours/3 = 20,040 hours.

[377] 183,326 hours/12,024 advisers = 15.25 hours.

[378] 45,740 hours/3 = 15,247 hours.

[379] 5,000 hours/3 = 1,667 hours.

[380] 15,247 hours for new registrants + 183,326 hours for existing registrants = 198,573 hours.

We also are adding a new Schedule R to Form ADV for umbrella registration. Of the advisers currently registered with us, we estimate based on current Form ADV filings that approximately 743 registered advisers currently submit a single Form ADV on behalf of themselves and approximately 2,587 relying advisers.[384] Taking into account the scope of information we are requesting and our understanding that much of the information is readily available and is already reported by advisers, we estimate that advisers to private funds that elect to rely on umbrella registration will spend 1 hour per filing adviser completing new Schedule R. As a result, we estimate that umbrella registration will add 743[385] hours to the annual burden estimate applicable to registered advisers. We estimate that, on average, 51 SEC registered advisers annually will make their initial filing with us as filing advisers, increasing the overall annual burden for advisers to private funds an additional 51 hours, or 794 hours in total. Amortizing these hours for a three year period as with the rest of the burdens associated with Form ADV, results in an annual aggregate average burden of 265 additional hours per year.[386]

iii. Estimated Annual Burden Associated With Amendments, New Brochure Supplements, and Delivery Obligations

The current approved collection of information burden for Form ADV has three elements in addition to those discussed above: (1) The annual burden associated with annual and other amendments to Form ADV; (2) the annual burden associated with creating new Part 2 brochure supplements for advisory employees throughout the year; and (3) the annual burden associated with delivering codes of ethics to clients as a result of the offer of such codes contained in the brochure. We anticipate that our amendments to Form ADV will increase the currently approved annual burden estimate associated with annual amendments to Form ADV from 6 hours to 8 hours per adviser, but will not impact interim updating amendments to Form ADV.[387]

We continue to estimate that, on average, each adviser filing Form ADV through the IARD will likely amend its form two times during the year. We estimate, based on IARD system data, that advisers, on average, make one interim updating amendment (at an estimated 0.5 hours per amendment) and one annual updating amendment each year. Our estimate for the annual updating amendment in the Proposing Release was 7 hours per amendment each year. Based on the comments we received regarding separately managed account reporting that are discussed above,[388] we are increasing the estimate to 8 hours per amendment each year.[389]

In addition, the currently approved annual burden estimates are that each investment adviser registered with us will, on average, spend 1 hour per year making interim amendments to brochure supplements,[390] and an additional 1 hour per year to prepare new brochure supplements as required by Part 2.[391] The currently approved annual burden estimate is that advisers spend an average of 1.3 hours annually to meet obligations to deliver codes of ethics to clients upon request.[392] We are not changing these estimates as the amendments do not affect these requirements. The increase in the annual burden estimate associated with annual amendments to Form ADV and the increase in the number of registered investment advisers since the last approval of this collection, increase the total annual burden for advisers registered with us attributable to amendments, brochure supplements and obligations to deliver codes of ethics to 141,883 hours.[393]

iv. Estimated Annual Cost Burden

The currently approved total annual collection of information burden estimate for Form ADV has a one-time initial cost for outside legal and compliance consulting fees in connection with the initial preparation of Part 2 of Form ADV. We do not anticipate that the amendments we are adopting to Form ADV will affect the per adviser cost burden estimates for outside legal and compliance consulting fees. In addition to the estimated legal and compliance consulting fees, investment advisers of private funds incur costs with respect to the requirement for investment advisers to report the fair value of private fund assets. We did not receive any comments regarding these specific costs.

We expect that 1,000 new advisers will register annually with the Commission. We estimate that the initial cost related to preparation of Part 2 of Form ADV will be $4,400 for legal services and $5,000 for compliance consulting services, in each case, for those advisers who engage legal counsel or consultants. We anticipate that a quarter of these advisers will seek the help of outside legal services and half will seek the help of compliance consulting services. Accordingly, we estimate that 250 of these advisers will use outside legal services, for a total annual aggregate cost burden of

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[381] Based on IARD system data as of May 16, 2016. We include existing funds of currently registered advisers in the estimated initial hour burden calculation because, for purposes of estimating burdens under the Paperwork Reduction Act, we assume that every existing registered adviser completes an initial filing completing Item 7.B. and Schedule D, Section 7.B. per fund in a three year period, which is the period after which estimates are required to be renewed.

[382] 1 hour × 30,896 private funds = 30,896 hours. 1 hour × 1,100 private funds = 1,100 hours. 30,896 hours + 1,100 hours = 31,996 hours.

[383] 31,996 hours/3 = 10,665 hours.

[384] Based on IARD system data as of May 16, 2016.

[385] 743 filing advisers × 1 hour per completing Schedule R = 743 hours.

[386] 794 hours/3 = 265 hours.

[387] Certain commenters were concerned about the burden on advisers of updating social media information via interim updating amendments. *See* BlackRock Letter; Oppenheimer Letter; SIFMA Letter. As discussed in Section II.A.2.a., we clarified that we are limiting the required social media reporting to an adviser's accounts on publicly available social media platforms where the adviser controls the content. We believe changes to such platforms will be less frequent than changes, for example, to platforms where an adviser does not control the content. Therefore, we do not believe that updating social media reporting via interim updating amendments will increase the currently approved annual burden estimate associated with interim updating amendments.

[388] AIMA Letter; ASG Letter; IAA Letter; SIFMA Letter. *See also* Adrian Day Letter; NRS Letter.

[389] (12,024 advisers x 0.5 hours/other than annual amendment) + (12,024 advisers × 8 hours/annual amendment) = 102,204 hours.

[390] 12,024 hours attributable to interim amendments to the brochure supplements = 12,024 advisers × 1 hour = 12,024 hours.

[391] 12,024 hours attributable to new brochure supplements = 12,024 advisers × 1 hour = 12,024 hours.

[392] 15,631 hours for the delivery of codes of ethics = 12,024 advisers × 1.3 hours = 15,631 hours.

[393] 102,204 hours + 12,024 hours + 12,024 hours + 15,631 hours = 141,883 hours.

$1,100,000,[394] and 500 advisers will use outside compliance consulting services, for a total annual aggregate cost burden of $2,500,000,[395] resulting in a total annual aggregate cost burden among all respondents of $3,600,000 for outside legal and compliance consulting fees related to drafting narrative brochures.[396]

We estimate that 6% of registered advisers have at least one private fund client that may not be audited. These advisers therefore may incur costs to fair value their private fund assets. Based on IARD system data as of May 16, 2016, 4,469 registered advisers currently advise private funds. We therefore estimate that approximately 268 registered advisers may incur costs of $37,625 each on an annual basis, for an aggregate annual total cost of $10,083,500.[397]

Together, we estimate that the total cost burden among all respondents for outside legal and compliance consulting fees related to third party or outside valuation services and for drafting outside legal and compliance consulting fees to be $13,683,500.[398]

b. Estimated Annual Burden Applicable to Exempt Reporting Advisers

i. Estimated Initial Hour Burden

Based on IARD system data as of May 16, 2016, there are approximately 3,248 exempt reporting advisers currently filing reports with the SEC.[399] The paperwork burden applicable to these exempt reporting advisers consists of the burden attributable to completing a limited number of items in Form ADV Part 1A as well as the burden attributable to the private fund reporting requirements of Item 7.B. and Section 7.B. of Schedule D.

The currently approved estimate of the average total collection of information burden per exempt reporting adviser for the first year that an exempt reporting adviser completes a limited subset of Part 1 of Form ADV, other than Item 7.B. and Section 7.B. of Schedule D, is 2 hours. As discussed above, we do not anticipate that our amendments to Form ADV will affect the per exempt reporting adviser burden estimate. Based on IARD system data, we estimate that there will be 500 new exempt reporting advisers filing Form ADV annually. Therefore, we estimate that the total aggregate annual burden applicable to the existing and new exempt reporting advisers for the first year that they complete Form ADV but excluding private fund reporting requirements increases to 7,496 hours.[400] Amortizing the burden imposed by Form ADV over a three-year period to reflect the anticipated period of time that advisers will use the revised Form ADV results in an average annual aggregate burden estimate of 2,499 hours per year.[401]

As discussed above, we estimate the burden of completing Item 7.B. and Section 7.B. of Schedule D to be 1 hour per private fund. We do not anticipate that our amendments to Form ADV will affect the per exempt reporting adviser burden of completing Item 7.B. and Section 7.B. of Schedule D. Based on IARD system data as of May 16, 2016, we estimate that, on average, the 3,248 exempt reporting advisers report 11,915 funds. In addition, we estimate that the 500 new exempt reporting advisers making their initial filing will report approximately 1,000 funds, resulting in a total aggregate annual burden of 12,915 hours.[402] Amortizing this total burden over three years as we did above for registered advisers results in an average annual aggregate burden estimate of 4,305 hours per year,[403] or approximately 1 hour per year, on average, for each exempt reporting adviser.[404]

ii. Estimated Annual Burden Associated With Amendments and Final Filings

In addition to the burdens associated with initial completion and filing of the portion of the form that exempt reporting advisers are required to prepare, we estimate that, based on IARD system data, each exempt reporting adviser will amend its form 2 times per year. On average, these consist of one interim updating amendment (at an estimated 0.5 hours per amendment)[405] and one annual updating amendment (at an estimated 1 hour per amendment)[406] each year. In addition, we anticipate 200 final filings by exempt reporting advisers annually (at an estimated 0.1 hours per filing).[407] We do not anticipate that our amendments to Form ADV will affect the per exempt reporting adviser burden for amendments or final filings. However, based on the increase in the number of exempt reporting advisers, the total annual burden associated with exempt reporting advisers filing amendments and final filings has increased to 4,892 hours.[408]

3. Total Revised Burdens

The revised total annual aggregate collection of information burden for SEC registered advisers to file and complete the revised Form ADV (Parts 1 and 2), including the initial burden for both existing and anticipated new registrants, private fund reporting, plus the burden associated with filing amendments to the form, preparing brochure supplements and delivering codes of ethics to clients, is estimated to be approximately 351,386 hours per year, for a monetized total of approximately $89,427,737.[409]

The revised total annual collection of information burden for exempt reporting advisers to file and complete the required Items of Part 1A of Form

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[394] 25% × 1000 SEC registered advisers = approximately 250 advisers. $4,400 for legal services × 250 advisers = $ 1,100,000.

[395] 50% × 1000 SEC registered advisers = 500 advisers. $5,000 for consulting services × 500 advisers = $2,500,000.

[396] $1,100,000 + $2,500,000 = $3,600,000.

[397] 268 advisers × $37,625 = $10,083,500.

[398] $3,600,000 + $10,083,500 = $13,683,500.

[399] Based on IARD system data as of May 16, 2016. We include existing exempt reporting advisers and their private funds in the estimated initial hour burden calculation because, for the purpose of estimating burdens under the Paperwork Reduction Act, we assume that every new and existing exempt reporting adviser completes an initial Form ADV in a three year period, which is the period after which estimates are required to be renewed.

[400] 2 hours × (3,248 reporting exempt reporting advisers + 500 new exempt reporting advisers) = 7,496 hours.

[401] 7,496 hours/3 = 2,499 hours.

[402] 11,915 funds + 1,000 funds = 12,915 funds. 12,915 × 1 hour = 12,915 hours.

[403] 12,915 hours/3 years = 4,305 hours per year.

[404] 4,305 hours per year/3,748 exempt reporting advisers = 1.1 hours per year.

[405] 3,248 exempt reporting advisers × .5 hours = 1,624 hours.

[406] 3,248 exempt reporting advisers × 1 hour = 3,248 hours.

[407] 200 final filings × 0.1 hours = 20 hours.

[408] 1,624 hours + 3,248 hours + 20 hours = 4,892 hours. Exempt reporting advisers are not required to complete Part 2 of Form ADV and so will not incur an hour burden to prepare new brochure supplements or the cost for preparation of the brochure. Exempt reporting advisers also do not have an obligation to deliver codes of ethics to clients when requested as required by Part 2 of Form ADV.

[409] 198,573 hours per year attributable to initial preparation of Form ADV + 10,665 hours per year attributable to initial private fund reporting requirements + 265 hours per year for initial umbrella registration + 141,883 hours per year attributable to filing amendments, brochure supplements and obligations to deliver codes of ethics = 351,386 hours. One commenter stated that the work of compliance is generally carried out by the Chief Compliance Officer with limited assistance from others. PCA Letter. However, based on our experience, we expect that at most Commission registered advisers, the performance of this function will most likely be equally allocated between a senior compliance examiner and a compliance manager, or persons performing similar functions. Data from the SIFMA *Management and Professional Earnings Report,* modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead, suggest that costs for these positions are $221 and $288 per hour, respectively. (175,693 hours × $221) + (175,693 hours × $288) = $89,427,737.

ADV, including the burdens associated with private fund reporting, amendments to the form and final filings, will be approximately 11,696 hours per year, for a monetized total of $2,976,632.[410]

We estimate that with today's amendments to Form ADV, the revised total aggregate annual hour burden for the form will be approximately 363,082 hours and the monetized total will be approximately $92,404,369.[411] This is an increase of 208,680 hours and $55,733,942 from the currently approved annual aggregate burden estimates,[412] which is attributable primarily to the currently approved burden estimates not considering the amortized annual burden of Form ADV on existing registered advisers and exempt reporting advisers; but also to the larger registered investment adviser and exempt reporting adviser population since the most recent approval, adjustments for inflation, and the amendments to Form ADV. The resulting blended average per adviser burden for Form ADV is 23.77 hours (for a monetized total of $6,051),[413] which consists of an average annual burden of 29.22 hours[414] for each of the estimated 12,024 SEC registered advisers, and 3.60 hours[415] for each of the estimated 3,248 exempt reporting advisers.

Registered investment advisers are also expected to incur an annual cost burden of $13,683,500, an increase of $10,083,500 from the current approved cost burden estimate of $3,600,000. The increase in annual cost burden is attributable to the currently approved burden not considering the cost to advisers to fair value private fund assets.

B. Rule 204–2

Rule 204–2 (OMB Control No. 3235–0278) requires investment advisers registered, or required to be registered under section 203 of the Act, to keep certain books and records relating to their advisory business. The collection of information under rule 204–2 is necessary for the Commission staff to use in its examination and oversight program. The information provided to the Commission in connection with staff examinations, investigations and oversight programs would be kept confidential subject to the provisions of applicable law. The collection of information is mandatory.

The amendments to rule 204–2 will require investment advisers to make and keep the following records: (i) Documentation necessary to demonstrate the calculation of the performance the adviser distributes to any person, and (ii) all written communications received or sent relating to the adviser's performance.

The currently approved total annual burden for rule 204–2 is based on an estimate of 10,946 registered advisers subject to rule 204–2 and an estimated average burden of 181.45 burden hours each year per adviser, for a total annual aggregate burden estimate of 1,986,152 hours. Based upon updated IARD system data as of May 16, 2016, the approximate number of investment advisers is 12,024. As a result of the increase in the number of advisers registered with the Commission since the current total annual burden estimate was approved, the total burden estimate has increased by 195,603 hours.[416] We estimate that most advisers provide, or seek to provide, performance information to their clients. Under the amendments, each adviser will be required to retain the records in the same manner, and for the same period of time, as other books and records under the rule.[417] We believe based on staff experience, and several commenters confirmed,[418] that the documentation necessary to support the performance calculations is customarily maintained, or required to be maintained by advisers already in account statements or portfolio management systems. We also believe that most advisers already maintain this information in their books and records, in order to show compliance with the Advisers Act advertising rule, rule 206(4)–1. In the Proposing Release, we estimated that the proposed amendments to rule 204–2 would increase the burden by approximately .5 hours per adviser annually. We received several comments suggesting that our estimated burden increase was significantly too low.[419] While we continue to believe that most advisers currently maintain this information, after considering the commenters' concerns, we now estimate that the amendments to rule 204–2 will increase the burden by approximately 1.5 hours per adviser annually for a total annual aggregate increase of 18,036 hours.[420] The revised annual aggregate burden estimate will be 2,199,791 hours.[421] The revised average burden estimate of the recordkeeping requirements under rule 204–2 per SEC-registered adviser will be approximately 183 hours per year.[422] The burden may be less than 1.5 hours for those advisers that currently maintain this information, and we acknowledge that the burden may be greater than 1.5 hours for advisers that frequently provide performance information to clients and do not currently maintain this information. We believe that, on average, 1.5 hours is an appropriate estimate for this collection of information.

Advisers will likely use a combination of compliance clerks and general clerks to make and keep the information and records required under the rule. The currently approved total annual aggregate cost burden is $108,708,557.10. We estimate the hourly wage for compliance clerks to be $65 per hour, including benefits, and the hourly wage for general clerks to be $58 per hour, including benefits.[423] For each adviser, 183 annual burden hours will be required to make and keep the information and records required under the rule. We anticipate that compliance clerks will perform an estimated 32 hours of this work, and general clerks will perform the remaining 151 hours. The total annual cost per respondent therefore will be an estimated $10,838,[424] for a total annual aggregate burden cost estimate of approximately $130,316,112,[425] an increase of $21,607,555 from the currently approved total annual aggregate cost per respondent.[426] The increase in cost is attributable to a larger registered investment adviser population since the most recent PRA approval, an adjustment for inflation in the hourly wage estimates for a compliance clerk and general clerk, and the rule 204–2 amendments discussed in this Release.

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[410] 2,499 hours per year attributable to initial preparation of Form ADV + 4,305 hours per year attributable to initial private fund reporting requirements + 4,892 hours per year for amendments and final filings = 11,696 hours. We expect that the performance of this function will most likely be equally allocated between a senior compliance examiner and a compliance manager, or persons performing similar functions. Data from the SIFMA *Management and Professional Earnings Report*, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead, suggest that costs for these positions are $221 and $288 per hour, respectively. (5,848 × $221) + (5,848 × $288) = $2,976,632.

[411] 351,386 hours + 11,696 hours = 363,082 hours. $89,427,737 + $2,976,632 = $92,404,369.

[412] 363,082 hours–154,402 hours = 208,680 hours. $92,404,369–$36,670,427 (currently approved monetized burden estimate) = $55,733,942.

[413] 363,082 hours/(12,024 registered advisers + 3,248 exempt reporting advisers) = 23.77 hours. $92,404,369/(12,024 registered advisers + 3,248 exempt reporting advisers) = $6,051.

[414] 351,386 hours/12,024 registered advisers = 29.22 hours.

[415] 11,696 hours/3,248 exempt reporting advisers = 3.60 hours.

[416] 12,024 advisers × 181.45 hours = 2,181,755 hours. 2,181,755 hours − 1,986,152 hours = 195,603 hours.

[417] Specifically, the records must be maintained in an easily accessible place for at least five years from the end of the fiscal year during which the last entry was made in such record, the first two years in an appropriate office of the investment adviser. *See* rule 204–2(e)(1).

[418] *See, e.g.,* ABA Committee Letter; Morningstar Letter; PCA Letter.

[419] ACG Letter; Anonymous Letter (estimates a training burden of 4–8 hours per effected employee in the first year; estimates that there will be additional expenses for data analysis and storage); PEGCC Letter (argues that, with respect to the proposed amendments to rule 204–2, the Commission significantly understated the burden on advisers and presented little evidence to support its burden estimate). *See* ASG Letter.

[420] 12,024 advisers × 1.5 hours = 18,036 hours.

[421] 1,986,152 (current approved burden) + 195,603 (burden for additional registrants) + 18,036 (burden for amendments) = 2,199,791 hours.

[422] 2,199,791 hours / 12,024 advisers = 183 hours.

[423] Our hourly wage rate estimate for a compliance clerk and general clerk is based on data from the SIFMA *Office Salaries in the Securities Industry Report 2013 ("SIFMA Office Salaries Report"),* modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 2.93, to account for bonuses, firm size, employee benefits and overhead.

VI. Final Regulatory Flexibility Analysis

The Commission has prepared the following Final Regulatory Flexibility Act Analysis, in accordance with section 4(a) of the Regulatory Flexibility Act, in relation to our amendments to Form ADV and rule 204–2 and our technical amendments to certain other rules under the Advisers Act.[427] We prepared an Initial Regulatory Flexibility Analysis (''IRFA'') in the Proposing Release.[428]

A. Need for and Objectives of the Amendments

We are adopting amendments to Form ADV that are designed to provide the Commission with additional information about registered investment advisers, including information about separately managed accounts, provide for umbrella registration for multiple investment advisers operating as a single advisory business, and provide technical, clarifying and other amendments to certain Form ADV provisions. The amendments to Form ADV will improve the depth and quality of the information provided by investment advisers to the Commission and the public.

We are also amending the Advisers Act books and records rule to require advisers to make and keep supporting documentation that demonstrates performance calculations or rates of return in any written communications that the adviser circulates or distributes, directly or indirectly, to any person. We believe that the amendments to the books and records rule will improve investor protections by providing useful information in examining and evaluating advisers' performance claims.

Finally, we are adopting technical amendments to certain rules under the Advisers Act to remove transition provisions where the transition process is complete.

B. Significant Issues Raised by Public Comments

The Commission is sensitive to the burdens that the Form ADV and rule amendments may have on small advisers. In the Proposing Release, we requested comment on matters discussed in the IRFA. In particular, we sought comments on the number of small entities, particularly small advisers, to which the amendments to Form ADV and Advisers Act rules would apply, and the impact of those amendments on the small entities, including whether the effects would be economically significant.

The Commission received one comment letter specifically addressing the IRFA[429] in addition to several comment letters that discussed the impact of the proposed amendments to Form ADV on smaller advisers.[430] With respect to the reporting on Form ADV regarding separately managed accounts, several commenters suggested decreasing the burden on small advisers by increasing the threshold for reporting derivatives and borrowings information in Schedule D, Section 5.K.(2) to $500 million from the proposed $150 million.[431] As discussed above, we are persuaded by commenters that this is a sensible accommodation that would allow us to meet our regulatory objectives while alleviating reporting burdens on smaller advisers, and have raised the minimum threshold for reporting information about the use of borrowings and derivatives in separately managed accounts to advisers with at least $500 million in separately managed account regulatory assets under management, from the proposed threshold of $150 million.[432] A commenter also suggested not requiring advisers with less than $150 million in separately managed account assets to report any separately managed account information, including in Sections 5.K.(1) and 5.K.(3).[433] As discussed in Section II.A.1. of this Release, we recognize that this reporting will impose some burden on all advisers with separately managed accounts, but we believe that gathering this information is important for us to gain a full understanding of assets held in separately managed accounts managed by investment advisers of different sizes. We also have limited both the scope of information to be reported and the frequency of reporting, which lessens the burden on small advisers.

One commenter described more generally the burdens of the amendments to Form ADV on smaller private fund advisers.[434] Other commenters noted that smaller advisers may not have additional staff to meet any increased burdens in reporting, and that smaller advisers may not have the staffing that we assume in calculating monetary burdens on advisers.[435] Another commenter noted that the requirement to report information about additional offices may have a disproportionate impact on smaller advisers.[436]

With respect to the amendments that we proposed to the Books and Records rule, one commenter noted that while the amendments were not themselves burdensome, when aggregated with other recordkeeping obligations, could lead to overall compliance burdens for smaller advisers.[437] While we acknowledge commenters' concerns, records from advisers of all sizes are required for our staff to be able to conduct its oversight of advisers, including examinations and investigations. Further, based on our staff's experience and the information provided by several commenters,[438] we believe that most advisers already maintain this information. Thus, we are adopting the amendments largely as proposed.

With respect to the amendments to Form ADV and the Advisers Act rules generally, we believe that they will improve the depth and quality of information provided by investment advisers to the Commission and the public and our oversight of advisers.

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[424] (32 hours per compliance clerk × $65) + (151 hours per general clerk × $58) = ($2,080 + $8,758) = $10,838.

[425] $10,838 per adviser × 12,024 advisers = approximately $130,316,112.

[426] $130,316,112 − $108,708,557 = $21,607,555.

[427] 5 U.S.C. 604(a).

[428] *See* Proposing Release, *supra* footnote 3 at Section V.

[429] PCA Letter.

[430] Adrian Day Letter; AIMA Letter; Diercks Letter; IAA Letter; SBIA Letter; Schwab & Co. Letter.

[431] IAA Letter; NYSBA Committee Letter; Schwab & Co. Letter.

[432] *See* Amended Form ADV, Part 1A, Schedule D, Section 5.K.(2).

[433] AIMA Letter; *see also* ASG Letter (suggesting establishing a minimum regulatory assets under management threshold above which reporting requirements would be imposed).

[434] *See* SBIA Letter.

[435] Adrian Day Letter; Diercks Letter; PCA Letter.

[436] NRS Letter.

[437] SBIA Letter.

[438] *See, e.g.,* ABA Committee Letter; Morningstar Letter; PCA Letter.

Information about advisers of all sizes is required for the Commission and its staff to perform their roles in overseeing advisers. Accordingly, we are not modifying the reporting requirements for smaller advisers.

C. Small Entities Subject to the Rule and Rule Amendments

The amendments to Form ADV and the Advisers Act rules affect all advisers registered with the Commission and exempt reporting advisers, including small entities. Under Commission rules, for the purposes of the Advisers Act and the Regulatory Flexibility Act, an investment adviser generally is a small entity if it: (1) Has assets under management having a total value of less than $25 million; (2) did not have total assets of $5 million or more on the last day of the most recent fiscal year; and (3) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of $25 million or more, or any person (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year.[439]

Our rule and Form ADV amendments will not affect most advisers that are small entities ("small advisers") because they are generally registered with one or more state securities authorities and not with us. Under section 203A of the Advisers Act, most small advisers are prohibited from registering with the Commission and are regulated by state regulators. Based on IARD system data, we estimate that as of May 16, 2016, approximately 526 advisers that are small entities are registered with the Commission.[440] Because these advisers are registered, they, like all SEC-registered investment advisers, will all be subject to the amendments to Form ADV, rule 204–2 and other Advisers Act rules.

The only small entity exempt reporting advisers that are subject to the amendments are exempt reporting advisers that maintain their principal office and place of business in Wyoming or outside the United States. Advisers with less than $25 million in assets under management generally are prohibited from registering with us unless they maintain their principal office and place of business in Wyoming or outside the United States. Exempt reporting advisers are not required to report regulatory assets under management on Form ADV and therefore we do not have a precise number of exempt reporting advisers that are small entities. Exempt reporting advisers are required to report in Part 1A, Schedule D the gross asset value of each private fund they manage.[441] Based on responses to that question, we estimate that there is approximately 1 exempt reporting adviser with its principal office and place of business in Wyoming that meets the definition of small entity. Advisers with their principal office and place of business outside the United States may have additional assets under management other than what is reported in Schedule D. Based on IARD filings, approximately 14.3% of registered investment advisers with their principal office and place of business outside the U.S. are small entities. Based on IARD system data as of May 16, 2016, there are approximately 1,428 exempt reporting advisers with their principal office and place of business outside the U.S. We estimate that 14.3% of those advisers, approximately 204 exempt reporting advisers, are small entities.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The amendments to Form ADV and rule 204–2 impose certain reporting, recordkeeping, and compliance requirements on all Commission-registered advisers, including small advisers. All Commission-registered small advisers are required to file Form ADV and include the new information required by the amendments, and all Commission-registered small advisers are subject to the amended recordkeeping requirements. Our technical amendments to other Advisers Act rules do not impose different reporting, recordkeeping, or other compliance requirements on small advisers.

Form ADV Amendments

The amendments to Form ADV require registered investment advisers to report different or additional information than what is currently required. Approximately 526 small advisers currently registered with us are subject to these requirements. We expect these 526 small advisers to spend, on average, 5 hours to respond to the new and amended questions, not including items relating to private fund reporting, which is discussed below.[442] We expect the aggregate cost to small advisers associated with this process is $669,335.[443]

In addition, of these 526 small advisers, we estimate that 3 small advisers currently rely on the 2012 ABA Letter to act as filing advisers for their relying advisers.[444] We expect that our changes to codify umbrella registration will take 3 hours[445] in the aggregate, at a cost to small advisers of $764.[446] We do not know how many additional small advisers will use umbrella registration as incorporated into Form ADV.

We do not estimate any increase or decrease in burden related to our amendments for small private fund advisers, other than the hours related to Schedule R, or for exempt reporting advisers. The total estimated costs associated with our amendments to Form ADV that we expect will be borne by small advisers is $670,099.[447]

Amendments to Books and Records Rule

Our amendments to rule 204–2's performance information recordkeeping provisions require investment advisers to make and keep the following records: (i) Documentation necessary to demonstrate the calculation of the performance the adviser distributes to any person, and (ii) all written communications received or sent relating to the adviser's performance. These amendments will create reporting, recordkeeping, and other compliance requirements for small advisers. As discussed in the Paperwork Reduction Act Analysis in Section V. above, the amendments to rule 204–2 will increase the burden by approximately 1.5 hours per adviser. We expect the aggregate cost to small advisers associated with our amendments is $46,700.[448]

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[439] Rule 0–7(a) under the Advisers Act.

[440] Based on SEC-registered investment adviser responses to Form ADV, Item 5.F and Item 12.

[441] *See* Form ADV, Part 1A, Schedule D, Section 7.B.(1).A., Question 11.

[442] *See* Section V. of this Release.

[443] We expect that performance of this function will most likely be equally allocated between a senior compliance examiner and a compliance manager. Data from the SIFMA *Management and Professional Earnings Report,* modified by Commission staff to account for an 1,800-hour work year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, suggest that costs for these positions are $221 and $288 per hour, respectively. 526 small advisers × 5 hours = 2,630 hours. [1,315 hours × $221 = $290,615] + [1,315 hours × $288 = $378,720] = $669,335.

[444] Based on IARD system data as of May 16, 2016.

[445] For purposes of the Paperwork Reduction Act, we estimated in Section V of this Release that amendments to codify umbrella registration will take an additional 1 hour per filing adviser.

[446] As discussed in connection with the Paperwork Reduction Act, we expect that performance of this function will most likely be equally allocated between a senior compliance examiner and a compliance manager. Data from the SIFMA *Management and Professional Earnings Report,* modified by Commission staff to account for an 1,800-hour work year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, suggest that costs for these positions are $221 and $288 per hour, respectively. 3 filing advisers × 1 hour = 3 hour. [1.5 hours × $221 = $332] + [1.5 hours × $288 = $432] = $764.

[447] $669,335 + $764 = $670,099. These costs are discussed in Paperwork Reduction Act Analysis in Section V. of this Release.

E. Agency Action To Minimize Effect on Small Entities

The Regulatory Flexibility Act directs the Commission to consider significant alternatives that would accomplish the stated objective, while minimizing any significant adverse impact on small entities. In connection with the Form ADV and rule amendments, the Commission considered the following alternatives: (i) The establishment of differing compliance or reporting requirements that take into account the resources available to small advisers; (ii) the clarification, consolidation, or simplification of compliance and reporting requirements under the Form ADV and rule amendments for such small entities; (iii) the use of performance rather than design standards; and (iv) an exemption from coverage of the Form ADV and rule amendments, or any part thereof, for such small entities.

Regarding the first and second alternatives, the adopted amendments require reporting on separately managed accounts on Schedule 5.K.(2) of Form ADV only for advisers with $500 million or more of regulatory assets under management attributable to separately managed accounts. Further, we require semi-annual information filed annually for those advisers with regulatory assets under management attributable to separately managed accounts of at least $10 billion, and annual information for other advisers.[449] Requiring no reporting on these items for advisers with less than $500 million, and less detailed reporting for advisers with less than $10 billion, is designed to balance our regulatory needs for this type of information while seeking to minimize the reporting burden on advisers that manage a smaller amount of separately managed account assets where appropriate.

Regarding the first and fourth alternatives for the other amendments to Form ADV and Advisers Act rules, we do not believe that different compliance or reporting requirements or an exemption from coverage of the Form ADV and rule amendments, or any part thereof, for small entities, would be appropriate. Information about advisers of all sizes is required for the Commission and its staff to perform their role in overseeing investment advisers. Accordingly, we are not modifying the reporting requirements for smaller advisers.

Regarding the second alternative for the other amendments to Form ADV and the Advisers Act rules, we considered whether further clarification, consolidation, or simplification of the compliance requirements was feasible or necessary. In response to commenters, we clarified certain instructions and items, which apply to all advisers filing Form ADV. The remaining Form ADV amendments do not change that all SEC-registered advisers use a single form, Form ADV, and an existing filing system, IARD, for reporting and registration purposes, and this does not change for small entities. With respect to the rule 204–2 amendments, we believe that the same requirements should apply to all advisers to permit our staff to more effectively examine them.

Regarding the third alternative, we considered using performance rather than design standards with respect to the amendments to Form ADV and rule 204–2 but, for the Commission and its staff to perform their role in overseeing advisers, advisers must provide certain registration information and maintain books and records in a uniform and quantifiable manner so that it is useful to our regulatory and examination program.

VII. Statutory Authority

The Commission is adopting amendments to Form ADV under section 19(a) of the Securities Act of 1933 [15 U.S.C. 77s(a)], sections 23(a) and 28(e)(2) of the Securities Exchange Act of 1934 [15 U.S.C. 78w(a) and 78bb(e)(2)], section 319(a) of the Trust Indenture Act of 1939 [15 U.S.C. 7sss(a)], section 38(a) of the Investment Company Act of 1940 [15 U.S.C. 80a–37(a)], and section 203(c)(1), 204 and 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3(c)(1), 80b–4, and 80b–11(a)]. The Commission is amending rule 204–2 pursuant to the authority set forth in sections 204 and 211 of the Advisers Act [15 U.S.C. 80b–4 and 80b–11]. The Commission is amending rule 202(a)(11)(G)–1 pursuant to authority in sections 202(a)(11)(G) and 206A of the Advisers Act [15 U.S.C. 80b–2(a)(11)(G) and 80b–6A]. The Commission is amending rule 203–1 pursuant to authority in section 206A of the Advisers Act [15 U.S.C. 80b–6A]. The Commission is rescinding rule 203A–5 and amending rule 204–1 pursuant to authority in sections 204 and 211(a) of the Advisers Act [15 U.S.C. 80b–4 and 80b–11(a)]. The Commission is amending rule 204–3 pursuant to authority in sections 204, 206(4) and 211(a) of the Advisers Act [15 U.S.C. 80b–4, 80b–6(4) and 80b–11(a)].

List of Subjects in 17 CFR Parts 275 and 279

Reporting and recordkeeping requirements; Securities.

Text of Rule and Form Amendments

For the reasons set forth in the preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

■ 1. The general authority citation for part 275 continues to read as follows, and the sectional authority for § 275.230A–5 is removed.

Authority: 15 U.S.C. 80b–2(a)(11)(G), 80b–2(a)(11)(H), 80b–2(a)(17), 80b–3, 80b–4, 80b–4a, 80b–6(4), 80b–6a, and 80b–11, unless otherwise noted.

* * * * *

§ 275.202(a)(11)(G)–1 [Amended]

■ 2. Amend § 275.202(a)(11)(G)–1 by removing paragraph (e).

■ 3. Section 275.203–1 is amended by:

■ a. In the first sentence of paragraph (a) removing the phrase "Subject to paragraph (b), to" and adding in its place "To";

■ b. Removing paragraph (b);

■ c. In the NOTE TO PARAGRAPHS (a) AND (b), revising the paragraph heading;

■ d. Redesignating paragraphs (c) and (d) as paragraphs (b) and (c); and

■ e. Removing paragraph (e).

The revision reads as follows:

§ 275.203–1 Application for investment adviser registration.

(a) * * *

NOTE TO PARAGRAPH (a): * * *

* * * * *

§ 275.203A–5 [Removed and Reserved]

■ 4. Section 275.203A–5 is removed and reserved.

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[448] As discussed in connection with the Paperwork Reduction Act, we expect that performance of this function will most likely be allocated between compliance clerks and general clerks with compliance clerks performing 17% of the function and general clerks performing 83% of the function. Data from the SIFMA *Office Salaries Report* modified by Commission staff to account for an 1,800-hour work year and inflation, and multiplied by 2.93 to account for bonuses, firm size, employee benefits, and overhead, suggest that costs for these positions are $65 per hour and $58 per hour, respectively. 526 small advisers × 1.5 hours = 789 hours. [0.17 × 789 hours × $65 = $8,718] + [0.83 × 789 hours × $58 = $37,982] = $46,700.

[449] Amended Form ADV, Part 1A, Schedule D, Sections 5.K.(1).

§ 275.204–1 [Amended]

■ 5. Section 275.204–1 is amended by:

■ a. In the first sentence of paragraph (b)(1) removing the phrase "Subject to paragraph (c) of this section, you" and adding in its place "You";

■ b. Removing paragraph (c); and

■ c. Redesignating paragraphs (d) and (e) as paragraphs (c) and (d).

■ 6. Section 275.204–2 is amended by:

■ a. Revising paragraph (a)(7); and

■ b. In paragraph (a)(16) removing the phrase "to 10 or more persons" and adding in its place "to any person".

The revision reads as follows:

§ 275.204–2 Books and records to be maintained by investment advisers.

(a) * * *

(7) Originals of all written communications received and copies of all written communications sent by such investment adviser relating to:

(i) Any recommendation made or proposed to be made and any advice given or proposed to be given;

(ii) Any receipt, disbursement or delivery of funds or securities;

(iii) The placing or execution of any order to purchase or sell any security;

(iv) The performance or rate of return of any or all managed accounts or securities recommendations: *Provided, however:*

(A) That the investment adviser shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment adviser, and

(B) That if the investment adviser sends any notice, circular or other advertisement offering any report, analysis, publication or other investment advisory service to more than 10 persons, the investment adviser shall not be required to keep a record of the names and addresses of the persons to whom it was sent; except that if such notice, circular or advertisement is distributed to persons named on any list, the investment adviser shall retain with the copy of such notice, circular or advertisement a memorandum describing the list and the source thereof.

* * * * *

§ 275.204–3 [Amended]

■ 7. Section 275.204–3 is amended by:

■ a. Removing paragraph (g); and

■ b. Redesignating paragraph (h) as paragraph (g).

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

■ 8. The authority citation for Part 279 continues to read as follows:

Authority: The Investment Advisers Act of 1940, 15 U.S.C. 80b–1, *et seq.*

■ 9. Form ADV [referenced in § 279.1] is amended by:

■ a. In the instructions to the form, revising the sections entitled "Form ADV: General Instructions." The revised version of Form ADV: General Instructions is attached as Appendix A;

■ b. In the instructions to the form, revising the section entitled "Form ADV: Instructions for Part 1A." The revised version of Form ADV: Instructions for Part 1A is attached as Appendix B;

■ c. In the instructions to the form, revising the section entitled "Form ADV: Glossary of Terms." The revised version of Form ADV: Glossary of Terms is attached as Appendix C;

■ d. In the form, revising Part 1A. The revised version of Form ADV, Part 1A, is attached as Appendix D.

Note: The text of Form ADV does not and the amendments will not appear in the Code of Federal Regulations.

By the Commission.

Dated: August 25, 2016.

Brent J. Fields,

Secretary.

BILLING CODE 8011–01–P

APPENDIX A

FORM ADV (Paper Version)

- **UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION AND**
- **REPORT FORM BY EXEMPT REPORTING ADVISERS**

Form ADV: General Instructions

Read these instructions carefully before filing Form ADV. Failure to follow these instructions, properly complete the form, or pay all required fees may result in your application or report being delayed or rejected.

In these instructions and in Form ADV, "you" means the investment adviser (*i.e.*, the advisory firm).

If you are a "separately identifiable department or division" (SID) of a bank, "you" means the SID, rather than your bank, unless the instructions or the form provide otherwise.

If you are a *private fund* adviser filing an *umbrella registration*, "you" means the *filing adviser* and each *relying adviser*, unless the instructions or the form provide otherwise. The information in Items 1, 2, 3 and 10 (including corresponding schedules) should be provided for the *filing adviser* only.

Terms that appear in *italics* are defined in the Glossary of Terms to Form ADV.

1. Where can I get more information on Form ADV, electronic filing, and the IARD?

The SEC provides information about its rules and the Advisers Act on its website: <http://www.sec.gov/iard>.

NASAA provides information about state investment adviser laws and state rules, and how to contact a *state securities authority*, on its website: <http://www.nasaa.org>.

FINRA provides information about the IARD and electronic filing on the IARD website: <http://www.iard.com>.

2. What is Form ADV used for?

Investment advisers use Form ADV to:

- Register with the Securities and Exchange Commission
- Register with one or more *state securities authorities*
- Amend those registrations;

- Report to the SEC as an *exempt reporting adviser*
- Report to one or more *state securities authorities* as an *exempt reporting adviser*
- Amend those reports; and
- Submit a final report as an *exempt reporting adviser*

3. How is Form ADV organized?

Form ADV contains four parts:

- Part 1A asks a number of questions about you, your business practices, the *persons* who own and *control* you, and the *persons* who provide investment advice on your behalf.
  - All advisers registering with the SEC or any of the *state securities authorities* must complete Part 1A.
  - *Exempt reporting advisers* (that are not also registering with any *state securities authority*) must complete only the following Items of Part 1A: 1, 2, 3, 6, 7, 10, and 11, as well as corresponding schedules. *Exempt reporting advisers* that are registering with any *state securities authority* must complete all of Form ADV.

  Part 1A also contains several supplemental schedules. The items of Part 1A let you know which schedules you must complete.

  - Schedule A asks for information about your direct owners and executive officers.
  - Schedule B asks for information about your indirect owners.
  - Schedule C is used by paper filers to update the information required by Schedules A and B (see Instruction 18).
  - Schedule D asks for additional information for certain items in Part 1A.
  - Schedule R asks for additional information about *relying advisers*.
  - Disclosure Reporting Pages (or DRPs) are schedules that ask for details about disciplinary events involving you or your *advisory affiliates*.

- Part 1B asks additional questions required by *state securities authorities*. Part 1B contains three additional DRPs. If you are applying for SEC registration or are registered only with the SEC, you do not have to complete Part 1B. (If you are filing electronically and you do not have to complete Part 1B, you will not see Part 1B).

- Part 2A requires advisers to create narrative *brochures* containing information about the advisory firm. The requirements in Part 2A apply to all investment advisers registered with or applying for registration with the SEC, but do not apply to *exempt reporting advisers*. Every application for registration must include a narrative brochure prepared in accordance with the requirements of Part 2A of Form ADV. See Advisers Act Rule 203-1.

- Part 2B requires advisers to create *brochure supplements* containing information about certain *supervised persons*. The requirements in Part 2B apply to all investment advisers registered with or applying for registration with the SEC, but do not apply to *exempt reporting advisers*.

4. When am I required to update my Form ADV?

- SEC- and State-Registered Advisers:
  - *Annual updating amendments*: You must amend your Form ADV each year by filing an *annual updating amendment* within 90 days after the end of your fiscal year. When you submit your *annual updating amendment*, you must update your responses to all items, including corresponding sections of Schedules A, B, C, and D and all sections of Schedule R for each *relying adviser*. You must submit your summary of material changes required by Item 2 of Part 2A either in the *brochure* (cover page or the page immediately thereafter) or as an exhibit to your *brochure*.
  - Other-than-annual amendments: In addition to your *annual updating amendment*, if you are registered with the SEC or a *state securities authority*, you must amend your Form ADV, including corresponding sections of Schedules A, B, C, D, and R, by filing additional amendments (other-than-annual amendments) promptly, if:
    - you are adding or removing a *relying adviser* as part of your *umbrella registration;*
    - information you provided in response to Items 1 (except 1.O. and Section 1.F. of Schedule D), 3, 9 (except 9.A.(2), 9.B.(2), 9.E., and 9.F.), or 11 of Part 1A or Items 1, 2.A. through 2.F., or 2.I. of Part 1B or Sections 1 or 3 of Schedule R becomes inaccurate in any way;
    - information you provided in response to Items 4, 8, or 10 of Part 1A, or Item 2.G. of Part 1B, or Section 10 of Schedule R becomes materially inaccurate; or
    - information you provided in your *brochure* becomes materially inaccurate (see note below for exceptions).

Notes: Part 1: If you are submitting an other-than-annual amendment, you are not required to update your responses to Items 2, 5, 6, 7, 9.A.(2), 9.B.(2), 9.E., 9.F., or 12 of Part 1A, Items 2.H. or 2.J. of Part 1B, Section 1.F. of Schedule D or Section 2 of Schedule R even if your responses to those items have become inaccurate.

Part 2: You must amend your *brochure supplements* (see Form ADV, Part 2B) promptly if any information in them becomes materially inaccurate. If you are submitting an other-than-annual amendment to your *brochure*, you are not required to update your summary of material changes as required by Item 2. You are not required to update your *brochure* between annual amendments solely because the amount of *client* assets you manage has changed or because your fee schedule has changed. However, if you are updating your *brochure* for a separate reason in between annual amendments, and the amount of *client* assets you manage listed in response to Item 4.E. or your fee schedule listed in response to Item 5.A. has become materially inaccurate, you should update that item(s) as part of the interim amendment.

- If you are an SEC-registered adviser, you are required to file your *brochure* amendments electronically through IARD. You are not required to file amendments to your *brochure supplements* with the SEC, but you must maintain a copy of them in your files.

- If you are a state-registered adviser, you are required to file your *brochure* amendments and *brochure supplement* amendments with the appropriate *state securities authorities* through IARD.

- *Exempt reporting advisers*:

  - *Annual Updating Amendments*: You must amend your Form ADV each year by filing an *annual updating amendment* within 90 days after the end of your fiscal year. When you submit your *annual updating amendment*, you must update your responses to all required items, including corresponding sections of Schedules A, B, C, and D.

  - Other-than-Annual Amendments: In addition to your *annual updating amendment*, you must amend your Form ADV, including corresponding sections of Schedules A, B, C, and D, by filing additional amendments (other-than-annual amendments) promptly if:

    - information you provided in response to Items 1 (except Item 1.O. and Section 1.F. of Schedule D), 3, or 11 becomes inaccurate in any way; or

    - information you provided in response to Item 10 becomes materially inaccurate.

Failure to update your Form ADV, as required by this instruction, is a violation of SEC rules or similar state rules and could lead to your registration being revoked.

5. What is SEC *umbrella registration* and how can I satisfy the requirements of filing an *umbrella registration?*

An *umbrella registration* is a single registration by a *filing adviser* and one or more *relying advisers* who advise only *private funds* and certain separately managed account *clients* that are *qualified clients* and collectively conduct a single advisory business. Absent other facts suggesting that the *filing adviser* and *relying adviser*(s) conduct different businesses, *umbrella registration* is available under the following circumstances:

i. The *filing adviser* and each *relying adviser* advise only *private funds* and *clients* in separately managed accounts that are *qualified clients* and are otherwise eligible to invest in the *private funds* advised by the *filing adviser* or a *relying adviser* and whose accounts pursue investment objectives and strategies that are substantially similar or otherwise related to those *private funds*.

ii. The *filing adviser* has its *principal office and place of business* in the United States and, therefore, all of the substantive provisions of the Advisers Act and the rules thereunder apply to the *filing adviser's* and each *relying adviser's* dealings with each of its *clients*, regardless of whether any *client* of the *filing adviser* or *relying adviser* providing the advice is a *United States person*.

iii. Each *relying adviser*, its *employees* and the *persons* acting on its behalf are subject to the *filing adviser's* supervision and *control* and, therefore, each *relying adviser*, its *employees* and the *persons* acting on its behalf are "persons associated with" the *filing adviser* (as defined in section 202(a)(17) of the Advisers Act).

iv. The advisory activities of each *relying adviser* are subject to the Advisers Act and the rules thereunder, and each *relying adviser* is subject to examination by the SEC.

v. The *filing adviser* and each *relying adviser* operate under a single code of ethics adopted in accordance with SEC rule 204A-1 and a single set of written policies and procedures adopted and implemented in accordance with SEC rule 206(4)-7 and administered by a single chief compliance officer in accordance with that rule.

To satisfy the requirements of Form ADV while using *umbrella registration* the *filing adviser* must sign, file, and update as required, a single Form ADV (Parts 1 and 2) that relates to, and includes all information concerning, the *filing adviser* and each *relying adviser* (*e.g.*, disciplinary information and ownership information), and must include this same information in any other reports or filings it must make under the Advisers Act or the rules thereunder (*e.g.*, Form PF). The *filing adviser* and each *relying adviser* must not be prohibited from registering with the SEC by section 203A of the Advisers Act (*i.e.*, the *filing adviser* and each *relying adviser* must individually qualify for SEC registration).

Unless otherwise specified, references to "you" in Form ADV refer to both the *filing adviser* and each *relying adviser*. The information in Items 1, 2, 3 and 10 (including corresponding schedules) should be provided for the *filing adviser* only. A separate Schedule R should be completed for each *relying adviser*. References to "you" in Schedule R refer to the *relying adviser* only.

A *filing adviser* applying for registration with the SEC should complete a Schedule R for each *relying adviser*. If you are a *filing adviser* registered with the SEC and would like to add or delete *relying advisers* from an *umbrella registration*, you should file an other-than-annual amendment and add or delete Schedule Rs as needed.

Note: *Umbrella registration* is not available to *exempt reporting advisers*.

6. Where do I sign my Form ADV application or amendment?

You must sign the appropriate Execution Page. There are three Execution Pages at the end of the form. Your initial application, your initial report (in the case of an *exempt reporting adviser*), and all amendments to Form ADV must include at least one Execution Page.

- If you are applying for or are amending your SEC registration, or if you are reporting as an *exempt reporting adviser* or amending your report, you must sign and submit either a:
    - Domestic Investment Adviser Execution Page, if you (the advisory firm) are a resident of the United States; or
    - *Non-Resident* Investment Adviser Execution Page, if you (the advisory firm) are not a resident of the United States.
- If you are applying for or are amending your registration with a *state securities authority*, you must sign and submit the State-Registered Investment Adviser Execution Page.

7. Who must sign my Form ADV or amendment?

The individual who signs the form depends upon your form of organization:

- For a sole proprietorship, the sole proprietor.
- For a partnership, a general partner.
- For a corporation, an authorized principal officer.
- For a "separately identifiable department or division" (SID) of a bank, a principal officer of your bank who is directly engaged in the management, direction, or supervision of your investment advisory activities.
- For all others, an authorized individual who participates in managing or directing your affairs.

The signature does not have to be notarized, and in the case of an electronic filing, should be a typed name.

8. How do I file my Form ADV?

Complete Form ADV electronically using the Investment Adviser Registration Depository (IARD) if:

- You are filing with the SEC (and submitting *notice filings* to any of the *state securities authorities*), or
- You are filing with a *state securities authority* that requires or permits advisers to submit Form ADV through the IARD.

  Note: SEC rules require advisers that are registered or applying for registration with the SEC, or that are reporting to the SEC as an *exempt reporting adviser*, to file electronically through the IARD system. See SEC rules 203-1 and 204-4.

To file electronically, go to the IARD website (<www.iard.com>), which contains detailed instructions for advisers to follow when filing through the IARD.

Complete Form ADV (Paper Version) on paper if:

- You are filing with the SEC or a *state securities authority* that requires electronic filing, but you have been granted a continuing hardship exemption. Hardship exemptions are described in Instruction 17.
- You are filing with a *state securities authority* that permits (but does not require) electronic filing and you do not file electronically.

9. How do I get started filing electronically?

First, obtain a copy of the IARD Entitlement Package from the following website: <http://www.iard.com/GetStarted.asp>. Second, request access to the IARD system for your firm by completing and submitting the IARD Entitlement Package. The IARD Entitlement Package explains how the form may be submitted. Mail the forms to: FINRA Entitlement Group, 9509 Key West Avenue, Rockville, MD 20850.

When FINRA receives your Entitlement Package, they will assign a *CRD* number (identification number for your firm) and a user I.D. code and password (identification number and system password for the individual(s) who will submit Form ADV filings for your firm). Your firm may request an I.D. code and password for more than one individual. FINRA also will create a financial account for you from which the IARD will deduct filing fees and any state fees you are required to pay. If you already have a *CRD* account with FINRA, it will also serve as your IARD account; a separate account will not be established.

Once you receive your *CRD* number, user I.D. code and password, and you have funded your account, you are ready to file electronically.

Questions regarding the Entitlement Process should be addressed to FINRA at 240.386.4848.

10. If I am applying for registration with the SEC, or amending my SEC registration, how do I make *notice filings* with the *state securities authorities*?

If you are applying for registration with the SEC or are amending your SEC registration, one or more *state securities authorities* may require you to provide them with copies of your SEC filings. We call these filings "*notice filings*." Your *notice filings* will be sent electronically to the states that you check on Item 2.C. of Part 1A. The *state securities authorities* to which you send *notice filings* may charge fees, which will be deducted from the account you establish with FINRA. To determine which *state securities authorities* require SEC-registered advisers to submit *notice filings* and to pay fees, consult the relevant state investment adviser law or *state securities authority*. See General Instruction 1.

If you are granted a continuing hardship exemption to file Form ADV on paper, FINRA will enter your filing into the IARD and your *notice filings* will be sent electronically to the *state securities authorities* that you check on Item 2.C. of Part 1A.

11. I am registered with a state. When must I switch to SEC registration?

If at the time of your *annual updating amendment* you meet at least one of the requirements for SEC registration in Item 2.A.(1) to (12) of Part 1A, you must apply for registration with the SEC within 90 days after you file the *annual updating amendment*. Once you register with the SEC, you are subject to SEC regulation, regardless of whether you remain registered with one or more states. See SEC rule 203A-1(b)(2). Each of your *investment adviser representatives*, however, may be subject to registration in those states in which the representative has a place of business. See Advisers Act section 203A(b)(1); SEC rule 203A-3(a). For additional information, consult the investment adviser laws or the *state securities authority* for the particular state in which you are "doing business." See General Instruction 1.

12. I am registered with the SEC. When must I switch to registration with a *state securities authority*?

If you check box 13 in Item 2.A. of Part 1A to report on your *annual updating amendment* that you are no longer eligible to register with the SEC, you must withdraw from SEC registration within 180 days after the end of your fiscal year by filing Form ADV-W. See SEC rule 203A-1(b)(2). You should consult state law or the *state securities authority* for the states in which you are "doing business" to determine if you are required to register in these states. See General Instruction 1. Until you file your Form ADV-W with the SEC, you will remain subject to SEC regulation, and you also will be subject to regulation in any states where you register. See SEC rule 203A-1(b)(2).

13. I am an *exempt reporting adviser*. When must I submit my first report on Form ADV?

- All *exempt reporting advisers*:
  You must submit your initial Form ADV filing within 60 days of relying on the exemption from registration under either section 203(l) of the Advisers Act as an adviser solely to one or more venture capital funds or section 203(m) of the Advisers Act because

you act solely as an adviser to private funds and have assets under management in the United States of less than $150 million.

- Additional instruction for advisers switching from being registered to being *exempt reporting advisers*:
  If you are currently registered as an investment adviser (or have an application for registration pending) with the SEC or with a *state securities authority*, you must file a Form ADV-W to withdraw from registration in the jurisdictions where you are switching. You must submit the Form ADV-W before submitting your first report as an *exempt reporting adviser*.

14. I am an *exempt reporting adviser*. Is it possible that I might be required to also register with or submit a report to a *state securities authority*?

Yes, you may be required to register with or submit a report to one or more *state securities authorities*. If you are required to register with one or more *state securities authorities*, you must complete all of Form ADV. See General Instruction 3. If you are required to submit a report to one or more *state securities authorities*, check the box(es) in Item 2.C. of Part 1A next to the state(s) you would like to receive the report. Each of your *investment adviser representatives* may also be subject to registration requirements. For additional information about the requirements that may apply to you, consult the investment adviser laws or the *state securities authority* for the particular state in which you are "doing business." See General Instruction 1.

15. What do I do if I no longer meet the definition of "*exempt reporting adviser*"?

- Advisers Switching to SEC Registration:
  - You may no longer be an *exempt reporting adviser* and may be required to register with the SEC if you wish to continue doing business as an investment adviser. For example, you may be relying on section 203(l) and wish to accept a *client* that is not a venture capital fund as defined in SEC rule 203(l)-1, or you may have been relying on SEC rule 203(m)-1 and reported in Section 2.B. of Schedule D to your *annual updating amendment* that you have *private fund* assets of $150 million or more.
    - If you are relying on section 203(l), unless you qualify for another exemption, you would violate the Advisers Act's registration requirement if you accept a *client* that is not a venture capital fund as defined in SEC rule 203(l)-1 before the SEC approves your application for registration. You must submit your final report as an *exempt reporting adviser* and apply for SEC registration in the same filing.
    - If you were relying on SEC rule 203(m)-1 and you reported in Section 2.B. of Schedule D to your *annual updating amendment* that you have *private fund* assets of $150 million or more, you must register with the SEC unless you qualify for another exemption. If you have complied with all SEC reporting

requirements applicable to an *exempt reporting adviser* as such, you have up to 90 days after filing your *annual updating amendment* to apply for SEC registration, and you may continue doing business as a *private fund* adviser during this time. You must submit your final report as an *exempt reporting adviser* and apply for SEC registration in the same filing. Unless you qualify for another exemption, you would violate the Advisers Act's registration requirement if you accept a *client* that is not a *private fund* during this transition period before the SEC approves your application for registration, and you must comply with all SEC reporting requirements applicable to an *exempt reporting adviser* as such during this 90-day transition period. If you have not complied with all SEC reporting requirements applicable to an *exempt reporting adviser* as such, this 90-day transition period is not available to you. Therefore, if the transition period is not available to you, and you do not qualify for another exemption, your application for registration must be approved by the SEC before you meet or exceed SEC rule 203(m)-1's $150 million asset threshold.

- You will be deemed in compliance with the Form ADV filing and reporting requirements until the SEC approves or denies your application. If your application is approved, you will be able to continue business as a registered adviser.

- If you register with the SEC, you may be subject to state *notice filing* requirements. To determine these requirements, consult the investment adviser laws or the *state securities authority* for the particular state in which you are "doing business." See General Instruction 1.

Note: If you are relying on SEC rule 203(m)-1 and you accept a *client* that is not a *private fund*, you will lose the exemption provided by SEC rule 203(m)-1 immediately. To avoid this result, you should apply for SEC registration in advance so that the SEC has approved your registration before you accept a *client* that is not a *private fund.*

The 90-day transition period described above also applies to investment advisers with their *principal offices and places of business* outside of the United States with respect to their *clients* who are *United States persons* (*e.g.*, the adviser would not be eligible for the 90-day transition period if it accepted a *client* that is a *United States person* and is not a *private fund*).

- Advisers Not Switching to SEC Registration:

  - You may no longer be an *exempt reporting adviser* but may not be required to register with the SEC or may be prohibited from doing so. For example, you may cease to do business as an investment adviser, become eligible for an exemption that does not require reporting, or be ineligible for SEC registration. In this case, you must submit a final report as an *exempt reporting adviser* to update only Item 1 of Part 1A of Form ADV.

- You may be subject to state registration requirements. To determine these requirements, consult the investment adviser laws or the *state securities authority* for the particular state in which you are "doing business." See General Instruction 1.

16. Are there filing fees?

Yes. These fees go to support and maintain the IARD. The IARD filing fees are in addition to any registration or other fee that may be required by state law. You must pay an IARD filing fee for your initial application, your initial report, and each *annual updating amendment*. There is no filing fee for an other-than-annual amendment, a final report as an *exempt reporting adviser*, or Form ADV-W. The IARD filing fee schedule is published at <http://www.sec.gov/iard>; <http://www.nasaa.org>; and <http://www.iard.com>.

If you are submitting a paper filing under a continuing hardship exemption (see Instruction 17), you are required to pay an additional fee. The amount of the additional fee depends on whether you are filing Form ADV or Form ADV-W. (There is no additional fee for filings made on Form ADV-W.) The hardship filing fee schedule is available by contacting FINRA at 240.386.4848.

17. What if I am not able to file electronically?

If you are required to file electronically but cannot do so, you may be eligible for one of two types of hardship exemptions from the electronic filing requirements.

- A **temporary hardship exemption** is available if you file electronically, but you encounter unexpected difficulties that prevent you from making a timely filing with the IARD, such as a computer malfunction or electrical outage. This exemption does not permit you to file on paper; instead it extends the deadline for an electronic filing for seven business days. See SEC rules 203-3(a) and 204-4(e).

- A **continuing hardship exemption** may be granted if you are a small business and you can demonstrate that filing electronically would impose an undue hardship. You are a small business, and may be eligible for a continuing hardship exemption, if you are required to answer Item 12 of Part 1A (because you have assets under management of less than $25 million) and you are able to respond "no" to each question in Item 12. See SEC rule 0-7.

  If you have been granted a continuing hardship exemption, you must complete and submit the paper version of Form ADV to FINRA. FINRA will enter your responses into the IARD. As discussed in General Instruction 16, FINRA will charge you a fee to reimburse it for the expense of data entry.

18. I am eligible to file on paper. How do I make a paper filing?

When filing on paper, you must:

- Type all of your responses.
- Include your name (the same name you provide in response to Item 1.A. of Part 1A) and the date on every page.
- If you are amending your Form ADV:
  - complete page 1 and circle the number of any item for which you are changing your response.
  - include your SEC 801-number (if you have one), or your 802-number (if you have one), and your *CRD* number (if you have one) on every page.
  - complete the amended item in full and circle the number of the item for which you are changing your response.
  - to amend Schedule A or Schedule B, complete and submit Schedule C.

Where you submit your paper filing depends on why you are eligible to file on paper:

- If you are filing on paper because you have been granted a continuing hardship exemption, submit one manually signed Form ADV and one copy to: IARD Document Processing, FINRA, P.O. Box 9495, Gaithersburg, MD 20898-9495.

  If you complete Form ADV on paper and submit it to FINRA but you do not have a continuing hardship exemption, the submission will be returned to you.

- If you are filing on paper because a state in which you are registered or in which you are applying for registration allows you to submit paper instead of electronic filings, submit one manually signed Form ADV and one copy to the appropriate *state securities authorities*.

19. Who is required to file Form ADV-NR?

Every *non-resident* general partner and *managing agent* of all SEC-registered advisers and *exempt reporting advisers*, whether or not the adviser is resident in the United States, must file Form ADV-NR in connection with the adviser's initial application or report. A general partner or *managing agent* of an SEC-registered adviser or *exempt reporting adviser* who becomes a *non-resident* after the adviser's initial application or report has been submitted must file Form ADV-NR within 30 days. Form ADV-NR must be filed on paper (it cannot be filed electronically).

Submit Form ADV-NR to the SEC at the following address:

> Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549;
> Attn: OCIE Registrations Branch.

Failure to file Form ADV-NR promptly may delay SEC consideration of your initial application.

Federal Information Law and Requirements

Sections 203 and 204 of the Advisers Act [15 U.S.C. §§ 80b-3 and 80b-4] authorize the SEC to collect the information required by Form ADV. The SEC collects the information for regulatory purposes, such as deciding whether to grant registration. Filing Form ADV is mandatory for advisers who are required to register with the SEC and for *exempt reporting advisers*. The SEC maintains the information submitted on this form and makes it publicly available. The SEC may return forms that do not include required information. Intentional misstatements or omissions constitute federal criminal violations under 18 U.S.C. § 1001 and 15 U.S.C. § 80b-17.

SEC's Collection of Information

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The Advisers Act authorizes the SEC to collect the information on Form ADV from investment advisers. See 15 U.S.C. §§ 80b-3 and 80b-4. Filing the form is mandatory.

The form enables the SEC to register investment advisers and to obtain information from and about *exempt reporting advisers*. Every applicant for registration with the SEC as an adviser, and every *exempt reporting adviser*, must file the form. See 17 C.F.R. §§ 275.203-1 and 204-4. By accepting a form, however, the SEC does not make a finding that it has been completed or submitted correctly. The form is filed annually by every adviser, no later than 90 days after the end of its fiscal year, to amend its registration or its report. It is also filed promptly during the year to reflect material changes. See 17 C.F.R. § 275.204-1. The SEC maintains the information on the form and makes it publicly available through the IARD.

Anyone may send the SEC comments on the accuracy of the burden estimate on page 1 of the form, as well as suggestions for reducing the burden. The Office of Management and Budget has reviewed this collection of information under 44 U.S.C. § 3507.

The information contained in the form is part of a system of records subject to the Privacy Act of 1974, as amended. The SEC has published in the Federal Register the Privacy Act System of Records Notice for these records

APPENDIX B

FORM ADV (Paper Version)

- **UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION AND**
- **REPORT BY EXEMPT REPORTING ADVISERS**

Form ADV: Instructions for Part 1A

These instructions explain how to complete certain items in Part 1A of Form ADV.

1. Item 1: Identifying Information

Separately Identifiable Department or Division of a Bank. If you are a "separately identifiable department or division" (SID) of a bank, answer Item 1.A. with the full legal name of your bank, and answer Item 1.B. with your own name (the name of the department or division) and all names under which you conduct your advisory business. In addition, your *principal office and place of business* in Item 1.F. should be the principal office at which you conduct your advisory business. In response to Item 1.I., the website addresses and social media information you list on Schedule D should be those that provide information about your own activities, rather than general information about your bank.

2. Item 2: SEC Registration and SEC Report by *Exempt Reporting Advisers*

If you are registered or applying for registration with the SEC, you must indicate in Item 2.A. why you are eligible to register with the SEC by checking at least one of the boxes.

a. **Item 2.A.(1): Adviser with Regulatory Assets Under Management of $100 Million or More.** You may check box 1 only if your response to Item 5.F.(2)(c) is $100 million or more, or you are filing an *annual updating amendment* with the SEC and your response to Item 5.F.(2)(c) is $90 million or more. While you may register with the SEC if your regulatory assets under management are at least $100 million but less than $110 million, you must apply for registration with the SEC if your regulatory assets under management are $110 million or more. If you are a SEC-registered adviser, you may remain registered with the SEC if your regulatory assets under management are $90 million or more. See SEC rule 203A-1(a). Part 1A Instruction 5.b. explains how to calculate your regulatory assets under management.

If you are a state-registered adviser and you report on your *annual updating amendment* that your regulatory assets under management increased to $100 million or more, you may register with the SEC. If your regulatory assets under management increased to $110 million or more, you must apply for registration with the SEC within 90 days after you file that *annual updating amendment*. See SEC rule 203A-1(b)(1) and Form ADV General Instruction 11.

b. **Item 2.A.(2): Mid-Sized Adviser.** You may check box 2 only if your response to Item 5.F.(2)(c) is $25 million or more but less than $100 million, and you satisfy one of the requirements below. Part 1A Instruction 5.b. explains how to calculate your regulatory assets under management.

You must register with the SEC if you meet at least one of the following requirements:

- You are not required to be registered as an investment adviser with the *state securities authority* of the state where you maintain your *principal office and place of business* pursuant to that state's investment adviser laws. If you are exempt from registration with that state or are excluded from the definition of investment adviser in that state, you must register with the SEC. You should consult the investment adviser laws or the *state securities authority* for the particular state in which you maintain your *principal office and place of business* to determine if you are required to register in that state. See General Instruction 1.

- You are not subject to examination by the *state securities authority* of the state where you maintain your *principal office and place of business*. To determine whether such *state securities authority* does not conduct such examinations, see: http://www.sec.gov/divisions/investment/midsizeadviserinfo.htm.

See section 203A(a)(2) of the Advisers Act.

c. **Item 2.A.(5): Adviser to an Investment Company.** You may check box 5 only if you currently provide advisory services under an investment advisory contract to an investment company registered under the Investment Company Act of 1940 and the investment company is operational (i.e., has assets and shareholders, other than just the organizing shareholders). See sections 203A(a)(1)(B) and 203A(a)(2)(A) of the Advisers Act. Advising investors about the merits of investing in mutual funds or recommending particular mutual funds does not make you eligible to check this box.

d. **Item 2.A.(6): Adviser to a Business Development Company.** You may check box 6 only if your response to Item 5.F.(2)(c) is $25 million or more of regulatory assets under management, and you currently provide advisory services under an investment advisory contract to a company that has elected to be a business development company pursuant to section 54 of the Investment Company Act of 1940, that has not withdrawn the election, and that is operational (i.e., has assets and shareholders, other than just the organizing shareholders). See section 203A(a)(2)(A) of the Advisers Act. Part 1A Instruction 5.b. explains how to calculate your regulatory assets under management.

e. **Item 2.A.(7): Pension Consultant.** You may check box 7 only if you are eligible for the pension consultant exemption from the prohibition on SEC registration.

- You are eligible for this exemption if you provided investment advice to employee benefit plans, governmental plans, or church plans with respect to assets having an aggregate value of $200 million or more during the 12-month period that ended within 90 days of filing this Form ADV. You are not eligible for this exemption if you only advise plan participants on allocating their investments within their pension plans. See SEC rule 203A-2(a).

- To calculate the value of assets for purposes of this exemption, aggregate the assets of the plans for which you provided advisory services at the end of the 12-month period. If you provided advisory services to other plans during the 12-month period, but your employment or contract terminated before the end of the 12-month period, you also may include the value of those assets.

f. **Item 2.A.(8): Related Adviser.** You may check box 8 only if you are eligible for the related adviser exemption from the prohibition on SEC registration. See SEC rule 203A-2(b). You are eligible for this exemption if you *control*, are *controlled* by, or are under common *control* with an investment adviser that is registered with the SEC, and you have the same *principal office and place of business* as that other investment adviser. Note that you may not rely on the SEC registration of an Internet adviser under rule 203A-2(e) in establishing eligibility for this exemption. See SEC rule 203A-2(e)(1)(iii). If you check box 8, you also must complete Section 2.A.(8) of Schedule D.

g. **Item 2.A.(9): Adviser Expecting to be Eligible for Registration within 120 Days.** You may check box 9 only if you are eligible for the exemption from the prohibition on SEC registration available to advisers expecting to be eligible for SEC registration within 120 days, such as a newly formed adviser. See SEC rule 203A-2(c). You are eligible for this exemption if immediately before you file your application for registration with the SEC:

- you were not registered or required to be registered with the SEC or a *state securities authority*; and

- you have a reasonable expectation that you will be eligible to register with the SEC within 120 days after the date that your registration with the SEC becomes effective.

If you check box 9, you also must complete Section 2.A.(9) of Schedule D.

You must file an amendment to Part 1A of your Form ADV that updates your response to Item 2.A. within 120 days after the SEC declares your registration effective. You may not check box 9 on your amendment; since this exemption is available only if you are not registered, you may not "re-rely" on this exemption. If you indicate on that amendment (by checking box 13) that you are not eligible to register with the SEC, you also must file a Form ADV-W to withdraw your SEC registration no later than 120 days after your registration was declared effective. You should contact the appropriate *state securities authority* to determine how long it may take to become state-registered sufficiently in advance of when you are required to file Form ADV-W to withdraw from SEC registration.

Note: If you expect to be eligible for SEC registration because of the amount of your regulatory assets under management, that amount must be $100 million or more no later than 120 days after your registration is declared effective.

h. **Item 2.A.(10): Multi-State Adviser.** You may check box 10 only if you are eligible for the multi-state adviser exemption from the prohibition on SEC registration. See SEC rule 203A-2(d). You are eligible for this exemption if you are required to register as an investment adviser with the *state securities authorities* of 15 or more states. If you check box 10, you must complete Section 2.A.(10) of Schedule D. You must complete Section 2.A.(10) of Schedule D in each *annual updating amendment* you submit.

If you check box 10, you also must:

- create and maintain a list of the states in which, but for this exemption, you would be required to register;
- update this list each time you submit an *annual updating amendment* in which you continue to represent that you are eligible for this exemption; and
- maintain the list in an easily accessible place for a period of not less than five years from each date on which you indicate that you are eligible for the exemption.

If, at the time you file your *annual updating amendment*, you are required to register in less than 15 states and you are not otherwise eligible to register with the SEC, you must check box 13 in Item 2.A. You also must file a Form ADV-W to withdraw your SEC registration. See Part 1A Instruction 2.j.

i. **Item 2.A.(11): Internet Adviser.** You may check box 11 only if you are eligible for the Internet adviser exemption from the prohibition on SEC registration. See SEC rule 203A-2(e). You are eligible for this exemption if:

- you provide investment advice to your *clients* through an interactive website. An interactive website means a website in which computer software-based models or applications provide investment advice based on personal information each *client* submits through the website. Other forms of online or Internet investment advice do not qualify for this exemption;

- you provide investment advice to all of your *clients* exclusively through the interactive website, except that you may provide investment advice to fewer than 15 *clients* through other means during the previous 12 months; and

- you maintain a record demonstrating that you provide investment advice to your *clients* exclusively through an interactive website in accordance with these limits.

j. **Item 2.A.(13): Adviser No Longer Eligible to Remain Registered with the SEC.** You must check box 13 if:

- you are registered with the SEC;

- you are filing an *annual updating amendment* to Form ADV in which you indicate in response to Item 5.F.(2)(c) that you have regulatory assets under management of less than $90 million; and
- you are not eligible to check any other box (other than box 13) in Item 2.A. (and are therefore no longer eligible to remain registered with the SEC).

You must withdraw from SEC registration within 180 days after the end of your fiscal year by filing Form ADV-W. Until you file your Form ADV-W, you will remain subject to SEC regulation, and you also will be subject to regulation in the states in which you register. See SEC rule 203A-1(b)(2).

k. **Item 2.B.: Reporting by *Exempt Reporting Advisers*.** You may check box 2.B.(1) only if you qualify for the exemption from SEC registration as an adviser solely to one or more venture capital funds. See SEC rule 203(l)-1. You may check box 2.B.(2) only if you qualify for the exemption from SEC registration because you act solely as an adviser to *private funds* and have assets under management in the United States of less than $150 million. See SEC rule 203(m)-1. You may check both boxes to indicate that you qualify for both exemptions. You should check box 2.B.(3) if you act solely as an adviser to *private funds* but you are no longer eligible to check box 2.B.(2) because you have assets under management in the United States of $150 million or more. If you check box 2.B.(2) or (3), you also must complete Section 2.B. of Schedule D.

3. Item 3: Form of Organization

If you are a "separately identifiable department or division" (SID) of a bank, answer Item 3.A. by checking "other." In the space provided, specify that you are a "SID of" and indicate the form of organization of your bank. Answer Items 3.B. and 3.C. with information about your bank.

4. Item 4: Successions

a. **Succession of an SEC-Registered Adviser.** If you (1) have taken over the business of an investment adviser or (2) have changed your structure or legal status (e.g., form of organization or state of incorporation), a new organization has been created, which has registration obligations under the Advisers Act. There are different ways to fulfill these obligations. You may rely on the registration provisions discussed in the General Instructions, or you may be able to rely on special registration provisions for "successors" to SEC-registered advisers, which may ease the transition to the successor adviser's registration.

To determine if you may rely on these provisions, review "Registration of Successors to Broker-Dealers and Investment Advisers," Investment Advisers Act Release No. 1357 (Dec. 28, 1992). If you have taken over an adviser, follow Part 1A Instruction 4.a.(1), Succession by Application. If you have changed your structure or legal status, follow Part 1A, Instruction 4.a.(2), Succession by Amendment. If either (1) you are a "separately identifiable department or division" (SID) of a bank that is currently registered as an investment adviser, and you are taking over your bank's advisory business; or (2) you are a SID currently registered as an investment adviser, and your bank is taking over your advisory business, then follow Part 1A Instruction 4.a.(1), Succession by Application.

(1) **Succession by Application.** If you are not registered with the SEC as an adviser, and you are acquiring or assuming substantially all of the assets and liabilities of the advisory business of an SEC-registered adviser, file a new application for registration on Form ADV. You will receive new registration numbers. You must file the new application within 30 days after the succession. On the application, make sure you check "yes" to Item 4.A., enter the date of the succession in Item 4.B., and complete Section 4 of Schedule D.

Until the SEC declares your new registration effective, you may rely on the registration of the adviser you are acquiring, but only if the adviser you are acquiring is no longer conducting advisory activities. Once your new registration is effective, a Form ADV-W must be filed with the SEC to withdraw the registration of the acquired adviser.

(2) **Succession by Amendment.** If you are a new investment adviser formed solely as a result of a change in form of organization, a reorganization, or a change in the composition of a partnership, and there has been no practical change in *control* or management, you may amend the registration of the registered investment adviser to reflect these changes rather than file a new application. You will keep the same registration numbers, and you should not file a Form ADV-W. On the amendment, make sure you check "yes" to Item 4.A., enter the date of the succession in Item 4.B., and complete Section 4 of Schedule D. You must submit the amendment within 30 days after the change or reorganization.

b. **Succession of a State-Registered Adviser.** If you (1) have taken over the business of an investment adviser or (2) have changed your structure or legal status (e.g., form of organization or state of incorporation), a new organization has been created, which has registration obligations under state investment adviser laws. There may be different ways to fulfill these obligations. You should contact each state in which you are registered to determine that state's requirements for successor registration. See Form ADV General Instruction 1.

5. Item 5: Information About Your Advisory Business

a. **Newly-Formed Advisers:** Several questions in Item 5 that ask about your advisory business assume that you have been operating your advisory business for some time. Your response to these questions should reflect your current advisory business (i.e., at the time you file your Form ADV), with the following exceptions:

- base your response to Item 5.E. on the types of compensation you expect to accept;

- base your response to Item 5.G. and Item 5.J. on the types of advisory services you expect to provide during the next year; and
- skip Item 5.H.

b. **Item 5.F.: Calculating Your Regulatory Assets Under Management.** In determining the amount of your regulatory assets under management, include the securities portfolios for which you provide continuous and regular supervisory or management services as of the date of filing this Form ADV.

(1) **Securities Portfolios.** An account is a securities portfolio if at least 50% of the total value of the account consists of securities. For purposes of this 50% test, you may treat cash and cash equivalents (i.e., bank deposits, certificates of deposit, bankers acceptances, and similar bank instruments) as securities. You must include securities portfolios that are:

(a) your family or proprietary accounts;

(b) accounts for which you receive no compensation for your services; and

(c) accounts of *clients* who are not *United States persons*.

For purposes of this definition, treat all of the assets of a *private fund* as a securities portfolio, regardless of the nature of such assets. For accounts of *private funds*, moreover, include in the securities portfolio any uncalled commitment pursuant to which a *person* is obligated to acquire an interest in, or make a capital contribution to, the *private fund*.

(2) **Value of Portfolio.** Include the entire value of each securities portfolio for which you provide continuous and regular supervisory or management services. If you provide continuous and regular supervisory or management services for only a portion of a securities portfolio, include as regulatory assets under management only that portion of the securities portfolio for which you provide such services. Exclude, for example, the portion of an account:

(a) under management by another *person*; or

(b) that consists of real estate or businesses whose operations you "manage" on behalf of a *client* but not as an investment.

Do not deduct any outstanding indebtedness or other accrued but unpaid liabilities.

(3) **Continuous and Regular Supervisory or Management Services.**

General Criteria. You provide continuous and regular supervisory or management services with respect to an account if:

(a) you have *discretionary authority* over and provide ongoing supervisory or management services with respect to the account; or

(b) you do not have *discretionary authority* over the account, but you have ongoing responsibility to select or make recommendations, based upon the needs of the *client*, as to specific securities or other investments the account may purchase or sell and, if such recommendations are accepted by the *client*, you are responsible for arranging or effecting the purchase or sale.

Factors. You should consider the following factors in evaluating whether you provide continuous and regular supervisory or management services to an account.

(a) **Terms of the advisory contract.** If you agree in an advisory contract to provide ongoing management services, this suggests that you provide these services for the account. Other provisions in the contract, or your actual management practices, however, may suggest otherwise.

(b) **Form of compensation.** If you are compensated based on the average value of the *client's* assets you manage over a specified period of time, that suggests that you provide continuous and regular supervisory or management services for the account. If you receive compensation in a manner similar to either of the following, that suggests you do not provide continuous and regular supervisory or management services for the account --

(i) you are compensated based upon the time spent with a *client* during a *client* visit; or

(ii) you are paid a retainer based on a percentage of assets covered by a financial plan.

(c) **Management practices.** The extent to which you actively manage assets or provide advice bears on whether the services you provide are continuous and regular supervisory or management services. The fact that you make infrequent trades (e.g., based on a "buy and hold" strategy) does not mean your services are not "continuous and regular."

Examples. You may provide continuous and regular supervisory or management services for an account if you:

(a) have *discretionary authority* to allocate *client* assets among various mutual funds;

(b) do not have *discretionary authority*, but provide the same allocation services, and satisfy the criteria set forth in Instruction 5.b.(3);

(c) allocate assets among other managers (a "manager of managers"), but only if you have *discretionary authority* to hire and fire managers and reallocate assets among them; or

(d) you are a broker-dealer and treat the account as a brokerage account, but only if you have *discretionary authority* over the account.

You do not provide continuous and regular supervisory or management services for an account if you:

(a) provide market timing recommendations (i.e., to buy or sell), but have no ongoing management responsibilities;

(b) provide only *impersonal investment advice* (e.g., market newsletters);

(c) make an initial asset allocation, without continuous and regular monitoring and reallocation; or

(d) provide advice on an intermittent or periodic basis (such as upon *client* request, in response to a market event, or on a specific date (e.g., the account is reviewed and adjusted quarterly)).

(4) **Value of Regulatory Assets Under Management.** Determine your regulatory assets under management based on the current market value of the assets as determined within 90 days prior to the date of filing this Form ADV. Determine market value using the same method you used to report account values to *clients* or to calculate fees for investment advisory services.

In the case of a *private fund*, determine the current market value (or fair value) of the *private fund's* assets and the contractual amount of any uncalled commitment pursuant to which a *person* is obligated to acquire an interest in, or make a capital contribution to, the *private* fund.

(5) **Example.** This is an example of the method of determining whether an account of a *client* other than a *private fund* may be included as regulatory assets under management.

The *client's* portfolio consists of the following:

$6,000,000	stocks and bonds
$1,000,000	cash and cash equivalents
$3,000,000	non-securities (collectibles, commodities, real estate, etc.)
$10,000,000	Total Assets

First, is the account a securities portfolio? The account is a securities portfolio because securities as well as cash and cash equivalents (which you have chosen to include as securities) ($6,000,000 + $1,000,000 = $7,000,000) comprise at least 50% of the value of the account (here, 70%). (See Instruction 5.b.(1)).

Second, does the account receive continuous and regular supervisory or management services? The entire account is managed on a *discretionary basis* and is provided ongoing supervisory and management services, and therefore receives continuous and regular supervisory or management services. (See Instruction 5.b.(3)).

Third, what is the entire value of the account? The entire value of the account ($10,000,000) is included in the calculation of the adviser's total regulatory assets under management.

6. Item 7: Financial Industry Affiliations and Private Fund Reporting

Item 7.A. and Section 7.A. of Schedule D ask questions about you and your *related persons'* financial industry affiliations. If you are filing an *umbrella registration*, you should not check Item 7.A.(2) with respect to your *relying advisers*, and you do not have to complete Section 7.A. in Schedule D for your *relying advisers*. You should complete Schedule R with respect to your *relying advisers*. Item 7.B. and Section 7.B. of Schedule D ask questions about the *private funds* that you advise. You are required to complete a Section 7.B.(1) of Schedule D for each *private fund* that you advise, except in certain circumstances described under Item 7.B. and below.

a. If your *principal office and place of business* is outside the United States, for purposes of Item 7 and Section 7.B. of Schedule D you may disregard any *private fund* that, during your last fiscal year, was not a *United States person*, was not offered in the United States, and was not beneficially owned by any *United States person*.

b. When filing Section 7.B.(1) of Schedule D for a *private fund*, you must acquire an identification number for the fund by logging onto the IARD website and using the private fund identification number generator. You must continue to use the same identification number whenever you amend Section 7.B.(1) for that fund. If you file a Section 7.B.(1) for a *private fund* for which an identification number has already been acquired by another adviser, you must not acquire a new identification number, but must instead utilize the existing number. If you choose to complete a single Section 7.B.(1) for a master-feeder arrangement under Instruction 6.d. below, you must acquire an identification number also for each feeder fund.

c. If any *private fund* has issued two or more series (or classes) of equity interests whose values are determined with respect to separate portfolios of securities and other assets, then each such series (or class) should be regarded as a separate *private fund*. In Section 7.B.(1) and 7.B.(2) of Schedule D, next to the name of the *private fund*, list the name and identification number of the specific series (or class) for which you are filing the sections. This only applies with respect to series (or classes) that you manage as if they were separate funds and not a fund's side pockets or similar arrangements.

d. In the case of a master-feeder arrangement (see questions 6-7 of Section 7.B.(1) of Schedule D), instead of completing a Section 7.B.(1) for each of the master fund and each feeder fund, you may complete a single Section 7.B.(1) for the master-feeder arrangement under the name of the master fund if the answers to questions 8, 10, 21 and 23 through 28 are the same for all of the feeder funds (or, in the case of questions 24 and 25, if the feeder funds do not use a prime broker or custodian). If you choose to complete a single Section 7.B.(1), you should disregard the feeder funds, except for the following:

(1) **Question 11:** State the gross assets for the master-feeder arrangement as a whole.

(2) **Question 12:** List the lowest minimum investment commitment applicable to any of the master fund and the feeder funds.

(3) **Questions 13-16:** Answer by aggregating all investors in the master-feeder arrangement (but do not count the feeder funds themselves as investors).

(4) **Questions 19-20:** For purposes of these questions, the *private fund* means any of the master fund or the feeder funds. In answering the questions, moreover, disregard the feeder funds' investment in the master fund.

(5) **Question 22:** List all of the Form D SEC file numbers of any of the master fund and feeder funds.

e. Additional Instructions:

(1) **Question 9: Investment in Registered Investment Companies:** For purposes of this question, disregard any open-end management investment company regulated as a money market fund under rule 2a-7 under the Investment Company Act if the *private fund* invests in such a company in reliance on rule 12d1-1 under the same Act.

(2) **Question 10: Type of *Private Fund*:** For purposes of this question, the following definitions apply:

"Hedge fund" means any *private fund* (other than a securitized asset fund):

(a) with respect to which one or more investment advisers (or *related persons* of investment advisers) may be paid a performance fee or allocation calculated by taking into account unrealized gains (other than a fee or allocation the calculation of which may take into account unrealized gains solely for the purpose of reducing such fee or allocation to reflect net unrealized losses);

(b) that may borrow an amount in excess of one-half of its net asset value (including any committed capital) or may have gross notional exposure in excess of twice its net asset value (including any committed capital); or

(c) that may sell securities or other assets short or enter into similar transactions (other than for the purpose of hedging currency exposure or managing duration).

A commodity pool is categorized as a hedge fund solely for purposes of this question. For purposes of this definition, do not net long and short positions. Include any borrowings or notional exposure of another *person* that are guaranteed by the *private fund* or that the *private fund* may otherwise be obligated to satisfy.

"Liquidity fund" means any *private fund* that seeks to generate income by investing in a portfolio of short-term obligations in order to maintain a stable net asset value per unit or minimize principal volatility for investors.

"Private equity fund" means any *private fund* that is not a hedge fund, liquidity fund, real estate fund, securitized asset fund, or venture capital fund and does not provide investors with redemption rights in the ordinary course.

"Real estate fund" means any *private fund* that is not a hedge fund, that does not provide investors with redemption rights in the ordinary course, and that invests primarily in real estate and real estate related assets.

"Securitized asset fund" means any *private fund* whose primary purpose is to issue asset backed securities and whose investors are primarily debt-holders.

"Venture capital fund" means any *private fund* meeting the definition of venture capital fund in rule 203(l)-1 under the Advisers Act.

"Other *private fund*" means any *private fund* that is not a hedge fund, liquidity fund, private equity fund, real estate fund, securitized asset fund, or venture capital fund.

(3) **Question 11: Gross Assets.** Report the assets of the *private fund* that you would include in calculating your regulatory assets under management according to Instruction 5.b. above.

(4) **Questions 19-20: Other *clients'* investments:** For purposes of these questions, disregard any feeder fund's investment in its master fund. (See questions 6-7 for the definition of "master fund" and "feeder fund").

7. Item 10: *Control Persons*

If you are a "separately identifiable department or division" (SID) of a bank, identify on Schedule A your bank's executive officers who are directly engaged in managing, directing, or supervising your investment advisory activities, and list any other *persons* designated by your bank's board of directors as responsible for the day-to-day conduct of your investment advisory activities, including supervising *employees* performing investment advisory activities.

8. Additional Information

If you believe your response to an item in Form ADV Part 1A requires further explanation, or if you wish to provide additional information, you may do so on Schedule D, in the Miscellaneous section. Completion of this section is optional

APPENDIX C

GLOSSARY OF TERMS

1. **Advisory Affiliate:** Your advisory affiliates are (1) all of your officers, partners, or directors (or any ***person*** performing similar functions); (2) all ***persons*** directly or indirectly ***controlling*** or ***controlled*** by you; and (3) all of your current ***employees*** (other than ***employees*** performing only clerical, administrative, support or similar functions).

   If you are a "separately identifiable department or division" (SID) of a bank, your ***advisory affiliates*** are: (1) all of your bank's ***employees*** who perform your investment advisory activities (other than clerical or administrative ***employees***); (2) all ***persons*** designated by your bank's board of directors as responsible for the day-to-day conduct of your investment advisory activities (including supervising the ***employees*** who perform investment advisory activities); (3) all ***persons*** who directly or indirectly ***control*** your bank, and all ***persons*** whom you ***control*** in connection with your investment advisory activities; and (4) all other ***persons*** who directly manage any of your investment advisory activities (including directing, supervising or performing your advisory activities), all ***persons*** who directly or indirectly ***control*** those management functions, and all ***persons*** whom you ***control*** in connection with those management functions. *[Used in: Part 1A, Items 7, 11, DRPs; Part 1B, Item 2]*

2. **Annual Updating Amendment:** Within 90 days after your firm's fiscal year end, your firm must file an "annual updating amendment," which is an amendment to your firm's Form ADV that reaffirms the eligibility information contained in Item 2 of Part 1A and updates the responses to any other item for which the information is no longer accurate. *[Used in: General Instructions; Part 1A, Instructions, Introductory Text, Item 2; Part 2A, Instructions, Appendix 1 Instructions; Part 2B, Instructions]*

3. **Borrowings:** Borrowings include secured borrowings and unsecured borrowings, collectively. Secured borrowings are obligations for borrowed money in respect of which the borrower has posted collateral or other credit support and should include any reverse repos (i.e., any sale of securities coupled with an agreement to repurchase the same (or similar) securities at a later date at an agreed price). Unsecured borrowings are obligations for borrowed money in respect of which the borrower has not posted collateral or other credit support. *[Used in: Part 1A, Instructions, Item 5, Schedule D]*

4. **Brochure:** A written disclosure statement that you must provide to ***clients*** and prospective ***clients***. See SEC rule 204-3; Form ADV, Part 2A. *[Used in: General Instructions; Used throughout Part 2]*

5. **Brochure Supplement:** A written disclosure statement containing information about certain of your ***supervised persons*** that your firm is required by Part 2B of Form ADV to provide to ***clients*** and prospective ***clients***. See SEC rule 204-3; Form ADV, Part 2B. *[Used in: General Instructions; Used throughout Part 2]*

6. **Charged:** Being accused of a crime in a formal complaint, information, or indictment (or equivalent formal charge). *[Used in: Part 1A, Item 11; DRPs]*

7. **Client:** Any of your firm's investment advisory clients. This term includes clients from which your firm receives no compensation, such as family members of your ***supervised persons***. If your firm also provides other services (e.g., accounting services), this term does not include clients that are not investment advisory clients. *[Used throughout Form ADV and Form ADV-W]*

8. **Commodity Derivative:** Exposures to commodities that you do not hold physically, whether held synthetically or through derivatives (whether cash or physically settled). *[Used in: Part 1A, Schedule D]*

9. **Control:** The power, directly or indirectly, to direct the management or policies of a ***person***, whether through ownership of securities, by contract, or otherwise.

   - Each of your firm's officers, partners, or directors exercising executive responsibility (or ***persons*** having similar status or functions) is presumed to control your firm.

   - A ***person*** is presumed to control a corporation if the ***person***: (i) directly or indirectly has the right to vote 25 percent or more of a class of the corporation's voting securities; or (ii) has the power to sell or direct the sale of 25 percent or more of a class of the corporation's voting securities.

   - A ***person*** is presumed to control a partnership if the ***person*** has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the partnership.

   - A ***person*** is presumed to control a limited liability company ("LLC") if the ***person***: (i) directly or indirectly has the right to vote 25 percent or more of a class of the interests of the LLC; (ii) has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the LLC; or (iii) is an elected manager of the LLC.

   - A ***person*** is presumed to control a trust if the ***person*** is a trustee or ***managing agent*** of the trust.

   [Used in: General Instructions; Part 1A, Instructions, Items 2, 7, 10, 11, 12, Schedules A, B, C, D, R; DRPs]

10. **Credit Derivative:** Single name credit default swap, including loan credit default swap, credit default swap referencing a standardized basket of credit entities, including credit default swap indices and indices referencing leveraged loans, and credit default swap referencing bespoke basket or tranche of collateralized debt obligations and collateralized loan obligations (including cash flow and synthetic) other than mortgage backed securities. *[Used in: Part 1A, Schedule D]*

11. **Custody:** Holding, directly or indirectly, ***client*** funds or securities, or having any authority to obtain possession of them. You have custody if a ***related person*** holds, directly or indirectly, ***client*** funds or securities, or has any authority to obtain possession of them, in connection with advisory services you provide to ***clients***. Custody includes:

    - Possession of ***client*** funds or securities (but not of checks drawn by ***clients*** and made payable to third parties) unless you receive them inadvertently and you return them to the sender promptly, but in any case within three business days of receiving them;

    - Any arrangement (including a general power of attorney) under which you are authorized or permitted to withdraw ***client*** funds or securities maintained with a custodian upon your instruction to the custodian; and

    - Any capacity (such as general partner of a limited partnership, managing member of a limited liability company or a comparable position for another type of pooled investment vehicle, or trustee of a trust) that gives you or your ***supervised person*** legal ownership of or access to ***client*** funds or securities.

    [Used in: Part 1A, Item 9; Part 1B, Instructions, Item 2; Part 2A, Items 15, 18]

12. **Discretionary Authority or Discretionary Basis:** Your firm has discretionary authority or manages assets on a discretionary basis if it has the authority to decide which securities to purchase and sell for the ***client***. Your firm also has discretionary authority if it has the authority to decide which investment advisers to retain on behalf of the ***client***. *[Used in: Part 1A, Instructions, Item 8; Part 1B, Instructions; Part 2A, Items 4, 16, 18; Part 2B, Instructions]*

13. **Employee:** This term includes an independent contractor who performs advisory functions on your behalf. *[Used in: Part 1A, Instructions, Items 1, 5, 11; Part 2B, Instructions]*

14. **Enjoined:** This term includes being subject to a mandatory injunction, prohibitory injunction, preliminary injunction, or a temporary restraining ***order***. *[Used in: Part 1A, Item 11; DRPs]*

15. **Equity Derivative:** Includes both listed equity derivative and derivative exposure to unlisted securities. Listed equity derivative includes all synthetic or derivative exposure to equities, including preferred equities, listed on a regulated exchange. Listed equity derivative also includes a single stock future, equity index future, dividend swap, total return swap (contract for difference), warrant and right. Derivative exposure to unlisted equities includes all synthetic or derivative exposure to equities, including preferred equities, that are not listed on a regulated exchange. Derivative exposure to unlisted securities also includes a single stock future, equity index future, dividend swap, total return swap (contract for difference), warrant and right. *[Used in: Part 1A, Schedule D]*

16. **Exempt Reporting Adviser:** An investment adviser that qualifies for the exemption from registration under section 203(l) of the Advisers Act because it is an adviser solely to one or

more venture capital funds, or under rule 203(m)-1 of the Advisers Act because it is an adviser solely to ***private funds*** and has assets under management in the United States of less than $150 million. *[Used in: Throughout Part 1A; General Instructions; Form ADV-H; Form ADV-NR]*

17. **Felony:** For jurisdictions that do not differentiate between a felony and a ***misdemeanor***, a felony is an offense punishable by a sentence of at least one year imprisonment and/or a fine of at least $1,000. The term also includes a general court martial. *[Used in: Part 1A, Item 11; DRPs; Part 2A, Item 9; Part 2B, Item 3]*

18. **Filing Adviser:** An investment adviser eligible to register with the SEC that files (and amends) a single ***umbrella registration*** on behalf of itself and each of its ***relying advisers***. *[Used in: General Instructions; Part 1A, Items 1, 2, 3, 10 and 11; Schedule R]*

19. **FINRA CRD** or **CRD:** The Web Central Registration Depository ("CRD") system operated by FINRA for the registration of broker-dealers and broker-dealer representatives. *[Used in: General Instructions; Part 1A, Item 1, Schedules A, B, C, D, R, DRPs; Form ADV-W, Item 1]*

20. **Foreign Exchange Derivative:** Any derivative whose underlying asset is a currency other than U.S. dollars or is an exchange rate. Cross-currency interest rate swaps should be included in foreign exchange derivatives and excluded from ***interest rate derivatives***. *[Used in: Part 1A, Schedule D]*

21. **Foreign Financial Regulatory Authority:** This term includes (1) a foreign securities authority; (2) another governmental body or foreign equivalent of a ***self-regulatory organization*** empowered by a foreign government to administer or enforce its laws relating to the regulation of ***investment-related*** activities; and (3) a foreign membership organization, a function of which is to regulate the participation of its members in the activities listed above. *[Used in: Part 1A, Items 1, 11, DRPs; Part 2A, Item 9; Part 2B, Item 3]*

22. **Found:** This term includes adverse final actions, including consent decrees in which the respondent has neither admitted nor denied the findings, but does not include agreements, deficiency letters, examination reports, memoranda of understanding, letters of caution, admonishments, and similar informal resolutions of matters. *[Used in: Part 1A, Item 11; Part 1B, Item 2; Part 2A, Item 9; Part 2B, Item 3]*

23. **Government Entity:** Any state or political subdivision of a state, including (i) any agency, authority, or instrumentality of the state or political subdivision; (ii) a plan or pool of assets ***controlled*** by the state or political subdivision or any agency, authority, or instrumentality thereof; and (iii) any officer, agent, or employee of the state or political subdivision or any agency, authority, or instrumentality thereof, acting in their official capacity. *[Used in: Part 1A, Item 5]*

24. **Gross Notional Value:** The gross nominal or notional value of all transactions that have been entered into but not yet settled as of the reporting date. For contracts with variable nominal or notional principal amounts, the basis for reporting is the nominal or notional

principal amounts as of the reporting date. For options, use delta adjusted notional value. *[Used in: Part 1A, Schedule D]*

25. **High Net Worth Individual:** An individual who is a ***qualified client*** or who is a "qualified purchaser" as defined in section 2(a)(51)(A) of the Investment Company Act of 1940. *[Used in: Part 1A, Item 5]*

26. **Home State:** If your firm is registered with a ***state securities authority***, your firm's "home state" is the state where it maintains its ***principal office and place of business***. *[Used in: Part 1B, Instructions]*

27. **Impersonal Investment Advice:** Investment advisory services that do not purport to meet the objectives or needs of specific individuals or accounts. *[Used in: Part 1A, Instructions; Part 2A, Instructions; Part 2B, Instructions]*

28. **Independent Public Accountant:** A public accountant that meets the standards of independence described in rule 2-01(b) and (c) of Regulation S-X (17 CFR 210.2-01(b) and (c)). *[Used in: Part 1A, Item 9; Schedule D]*

29. **Interest Rate Derivative:** Any derivative whose underlying asset is the obligation to pay or the right to receive a given amount of money accruing interest at a given rate. Cross-currency interest rate swaps should be included in ***foreign exchange derivatives*** and excluded from interest rate derivatives. This information must be presented in terms of 10-year bond equivalents. *[Used in: Part 1A, Schedule D]*

30. **Investment Adviser Representative:** Any of your firm's ***supervised persons*** (*except* those that provide only ***impersonal investment advice***) is an investment adviser representative, if --

    - the ***supervised person*** regularly solicits, meets with, or otherwise communicates with your firm's ***clients***,
    - the ***supervised person*** has more than five ***clients*** who are natural persons and not ***high net worth individuals***, and
    - more than ten percent of the ***supervised person's clients*** are natural persons and not ***high net worth individuals***.

NOTE: If your firm is registered with the ***state securities authorities*** and not the SEC, your firm may be subject to a different state definition of "investment adviser representative." Investment adviser representatives of SEC-registered advisers may be required to register in each state in which they have a place of business.

[Used in: General Instructions; Part 1A, Item 5; Part 2B, Item 1]

31. **Investment-Related:** Activities that pertain to securities, commodities, banking, insurance, or real estate (including, but not limited to, acting as or being associated with an investment

adviser, broker-dealer, municipal securities dealer, government securities broker or dealer, issuer, investment company, futures sponsor, bank, or savings association). *[Used in: Part 1A, Items 7, 11, Schedule D, DRPs; Part 1B, Item 2; Part 2A, Items 9 and 19; Part 2B, Items 3, 4 and 7]*

32. **Involved:** Engaging in any act or omission, aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act. *[Used in: Part 1A, Item 11; Part 2A, Items 9 and 10; Part 2B, Items 3 and 7]*

33. **Legal Entity Identifier:** A "legal entity identifier" assigned by a utility endorsed by the Global LEI Regulatory Oversight Committee (ROC) or accredited by the Global LEI Foundation (GLEIF). *[Used in: Part 1A, Item 1, Schedules D and R]*

34. **Management Persons:** Anyone with the power to exercise, directly or indirectly, a ***controlling*** influence over your firm's management or policies, or to determine the general investment advice given to the ***clients*** of your firm.

    Generally, all of the following are management persons:

    - Your firm's principal executive officers, such as your chief executive officer, chief financial officer, chief operations officer, chief legal officer, and chief compliance officer; your directors, general partners, or trustees; and other individuals with similar status or performing similar functions;

    - The members of your firm's investment committee or group that determines general investment advice to be given to ***clients***; and

    - If your firm does not have an investment committee or group, the individuals who determine general investment advice provided to ***clients*** (if there are more than five people, you may limit your firm's response to their supervisors).

[Used in: Part 1B, Item 2; Part 2A, Items 9, 10 and 19]

35. **Managing Agent:** A managing agent of an investment adviser is any ***person***, including a trustee, who directs or manages (or who participates in directing or managing) the affairs of any unincorporated organization or association that is not a partnership. *[Used in: General Instructions; Form ADV-NR; Form ADV-W, Item 8]*

36. **Minor Rule Violation:** A violation of a ***self-regulatory organization*** rule that has been designated as "minor" pursuant to a plan approved by the SEC. A rule violation may be designated as "minor" under a plan if the sanction imposed consists of a fine of $2,500 or less, and if the sanctioned ***person*** does not contest the fine. (Check with the appropriate ***self-regulatory organization*** to determine if a particular rule violation has been designated as "minor" for these purposes.) *[Used in: Part 1A, Item 11]*

37. **Misdemeanor:** For jurisdictions that do not differentiate between a ***felony*** and a misdemeanor, a misdemeanor is an offense punishable by a sentence of less than one year imprisonment and/or a fine of less than $1,000. The term also includes a special court martial. *[Used in: Part 1A, Item 11; DRPs; Part 2A, Item 9; Part 2B, Item 3]*

38. **Non-Resident:** (a) an individual who resides in any place not subject to the jurisdiction of the United States; (b) a corporation incorporated in or that has its ***principal office and place of business*** in any place not subject to the jurisdiction of the United States; and (c) a partnership or other unincorporated organization or association that is formed in or has its ***principal office and place of business*** in any place not subject to the jurisdiction of the United States. *[Used in: General Instructions; Form ADV-NR]*

39. **Notice Filing:** SEC-registered advisers may have to provide ***state securities authorities*** with copies of documents that are filed with the SEC. These filings are referred to as "notice filings." *[Used in: General Instructions; Part 1A, Item 2; Execution Page(s); Form ADV-W]*

40. **Order:** A written directive issued pursuant to statutory authority and procedures, including an order of denial, exemption, suspension, or revocation. Unless included in an order, this term does not include special stipulations, undertakings, or agreements relating to payments, limitations on activity or other restrictions. *[Used in: Part 1A, Items 2 and 11, Schedules D and R; DRPs; Part 2A, Item 9; Part 2B, Item 3]*

41. **Other Derivative:** Any derivative that is not a ***commodity derivative***, ***credit derivative***, ***equity derivative***, ***foreign exchange derivative*** or ***interest rate derivative***. *[Used in: Part 1A, Schedule D]*

42. **Parallel Managed Account:** With respect to any registered investment company or series thereof or business development company, a parallel managed account is any managed account or other pool of assets that you advise and that pursues substantially the same investment objective and strategy and invests side by side in substantially the same positions as the identified investment company or series thereof or business development company that you advise. *[Used in: Part 1A, Schedule D]*

43. **Performance-Based Fee:** An investment advisory fee based on a share of capital gains on, or capital appreciation of, ***client*** assets. A fee that is based upon a percentage of assets that you manage is not a performance-based fee. *[Used in: Part 1A, Item 5; Part 2A, Items 6 and 19]*

44. **Person:** A natural person (an individual) or a company. A company includes any partnership, corporation, trust, limited liability company ("LLC"), limited liability partnership ("LLP"), sole proprietorship, or other organization. *[Used throughout Form ADV and Form ADV-W]*

45. **Principal Office and Place of Business:** Your firm's executive office from which your firm's officers, partners, or managers direct, ***control***, and coordinate the activities of your

firm. *[Used in: Part 1A, Instructions, Items 1 and 2; Schedules D and R; Form ADV-W, Item 1]*

46. **Private Fund:** An issuer that would be an investment company as defined in section 3 of the Investment Company Act of 1940 but for section 3(c)(1) or 3(c)(7) of that Act. *[Used in: General Instructions; Part 1A, Instructions, Items 2, 5, 7, and 9; Part 1A, Schedule D]*

47. **Proceeding:** This term includes a formal administrative or civil action initiated by a governmental agency, ***self-regulatory organization*** or ***foreign financial regulatory authority***; a ***felony*** criminal indictment or information (or equivalent formal charge); or a ***misdemeanor*** criminal information (or equivalent formal charge). This term does not include other civil litigation, investigations, or arrests or similar charges effected in the absence of a formal criminal indictment or information (or equivalent formal charge). *[Used in: Part 1A, Item 11, DRPs; Part 1B, Item 2; Part 2A, Item 9; Part 2B, Item 3]*

48. **Qualified Client:** A ***client*** that satisfies the definition of qualified client in SEC rule 205-3. *[Used in: General Instructions; Part 1A, Schedule D]*

49. **Related Person:** Any ***advisory affiliate*** and any ***person*** that is under common ***control*** with your firm. *[Used in: Part 1A, Items 7, 8 and 9; Schedule D; Form ADV-W, Item 3; Part 2A, Items 10, 11, 12 and 14; Part 2A, Appendix 1, Item 6]*

50. **Relying Adviser:** An investment adviser eligible to register with the SEC that relies on a ***filing adviser*** to file (and amend) a single ***umbrella registration*** on its behalf. *[Used in: General Instructions; Part 1A, Items 1, 7 and 11; Schedules D and R]*

51. **Self-Regulatory Organization** or **SRO:** Any national securities or commodities exchange, registered securities association, or registered clearing agency. For example, the Chicago Board of Trade ("CBOT"), FINRA and New York Stock Exchange ("NYSE") are self-regulatory organizations. *[Used in: Part 1A, Item 11; DRPs; Part 1B, Item 2; Part 2A, Items 9 and 19; Part 2B, Items 3 and 7]*

52. **Sovereign Bonds:** Any notes, bonds and debentures issued by a national government (including central government, other governments and central banks but excluding U.S. state and local governments), whether denominated in a local or foreign currency. *[Used in: Part 1A, Schedule D]*

53. **Sponsor:** A sponsor of a ***wrap fee program*** sponsors, organizes, or administers the program or selects, or provides advice to ***clients*** regarding the selection of, other investment advisers in the program. *[Used in: Part 1A, Item 5, Schedule D; Part 2A, Instructions, Appendix 1 Instructions]*

54. **State Securities Authority:** The securities commissioner or commission (or any agency, office or officer performing like functions) of any state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any other possession of the United States. *[Used throughout Form ADV]*

55. **Supervised Person:** Any of your officers, partners, directors (or other ***persons*** occupying a similar status or performing similar functions), or ***employees***, or any other ***person*** who provides investment advice on your behalf and is subject to your supervision or ***control***. *[Used throughout Part 2]*

56. **Umbrella Registration:** A single registration by a ***filing adviser*** and one or more ***relying advisers*** who collectively conduct a single advisory business and that meet the conditions set forth in General Instruction 5. *[Used in: General Instructions; Part 1A, Items 1, 2, 3, 7, 10 and 11, Schedules D and R]*

57. **United States person:** This term has the same meaning as in rule 203(m)-1 under the Advisers Act, which includes any natural person that is resident in the United States. *[Used in: Part 1A, Instructions, Item 5; Schedule D]*

58. **Wrap Brochure or Wrap Fee Program Brochure:** The written disclosure statement that ***sponsors*** of ***wrap fee programs*** must provide to each of their ***wrap fee program clients***. *[Used in: Part 2, General Instructions; Used throughout Part 2A, Appendix 1]*

59. **Wrap Fee Program:** Any advisory program under which a specified fee or fees not based directly upon transactions in a ***client's*** account is charged for investment advisory services (which may include portfolio management or advice concerning the selection of other investment advisers) and the execution of ***client*** transactions. [*Used in: Part 1, Item 5; Schedule D; Part 2A, Instructions, Item 4, used throughout Appendix 1; Part 2B, Instructions]*

APPENDIX D

FORM ADV (Paper Version)

- **UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION**
  AND
- **REPORT BY EXEMPT REPORTING ADVISERS**

PART 1A

WARNING: Complete this form truthfully. False statements or omissions may result in denial of your application, revocation of your registration, or criminal prosecution. You must keep this form updated by filing periodic amendments. See Form ADV General Instruction 4.

Check the box that indicates what you would like to do (check all that apply):

SEC or State Registration:
☐ Submit an initial application to register as an investment adviser with the SEC.
☐ Submit an initial application to register as an investment adviser with one or more states.
☐ Submit an *annual updating amendment* to your registration for your fiscal year ended______.
☐ Submit an other-than-annual amendment to your registration.

SEC or State Report by *Exempt Reporting Advisers*:
☐ Submit an initial report to the SEC.
☐ Submit a report to one or more *state securities authorities*.
☐ Submit an *annual updating amendment* to your report for your fiscal year ended______.
☐ Submit an other-than-annual amendment to your report.
☐ Submit a final report.

Item 1 Identifying Information

Responses to this Item tell us who you are, where you are doing business, and how we can contact you. If you are filing an *umbrella registration*, the information in Item 1 should be provided for the *filing adviser* only. General Instruction 5 provides information to assist you with filing an *umbrella registration*.

A. Your full legal name (if you are a sole proprietor, your last, first, and middle names):

____

B. (1) Name under which you primarily conduct your advisory business, if different from Item 1.A.

____

List on Section 1.B. of Schedule D any additional names under which you conduct your advisory business.

(2) If you are using this Form ADV to register more than one investment adviser under an *umbrella registration*, check this box ☐.

If you check this box, complete a Schedule R for each relying adviser.

C. If this filing is reporting a change in your legal name (Item 1.A.) or primary business name (Item 1.B.(1)), enter the new name and specify whether the name change is of ☐ your legal name or ☐ your primary business name:

____

D. (1) If you are registered with the SEC as an investment adviser, your SEC file number: 801-___________.

(2) If you report to the SEC as an *exempt reporting adviser*, your SEC file number: 802-___________.

(3) If you have one or more Central Index Key numbers assigned by the SEC ("CIK Numbers"), all of your CIK numbers:____________.

E. (1) If you have a number ("*CRD* Number") assigned by the *FINRA's CRD* system or by the IARD system, your *CRD* number:_____________.

(2) If you have additional *CRD* Numbers, your additional *CRD* numbers:____________.

If your firm does not have a CRD number, skip this Item 1.E. Do not provide the CRD number of one of your officers, employees, or affiliates.

F. *Principal Office and Place of Business*

(1) Address (do not use a P.O. Box):

____

(number and street)

____

(city) (state/country) (zip +4/postal code)

If this address is a private residence, check this box: ☐

List on Section 1.F. of Schedule D any office, other than your principal office and place of business, at which you conduct investment advisory business. If you are applying for registration, or are registered, with one or more state securities authorities, you must list all of your offices in the state or states to which you are applying for registration or with whom you are registered. If you are applying for SEC registration, if you are registered only with the SEC, or if you are reporting to the SEC as an exempt reporting adviser, list the largest twenty-five offices in terms of numbers of employees as of the end of your most recently completed fiscal year.

(2) Days of week that you normally conduct business at your *principal office and place of business*:

☐ Monday - Friday ☐ Other: ______________________________

Normal business hours at this location: ______________________________

(3) Telephone number at this location: ________________________________
(area code) (telephone number)

(4) Facsimile number at this location, if any: ________________________________
(area code) (facsimile number)

(5) What is the total number of offices, other than your *principal office and place of business*, at which you conduct investment advisory business as of the end of your most recently completed fiscal year? ______________

G. Mailing address, if different from your *principal office and place of business* address:

____
(number and street)

____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

H. If you are a sole proprietor, state your full residence address, if different from your *principal office and place of business* address in Item 1.F.:

____
(number and street)

____
(city) (state/country) (zip+4/postal code)

I. Do you have one or more websites or accounts on publicly available social media platforms (including, but not limited to, Twitter, Facebook and LinkedIn)?

Yes ☐ No ☐

If "yes," list all firm website addresses and the address for each of the firm's accounts on publicly available social media platforms on Section 1.I. of Schedule D. If a website address serves as a portal through which to access other information you have published on the web, you may list the portal without listing addresses for all of the other information. You may need to list more than one portal address. Do not provide the addresses of websites or accounts on publicly available social media platforms where you do not control the content. Do not provide the individual electronic mail (e-mail) addresses of employees or the addresses of employee accounts on publicly available social media platforms.

J. Chief Compliance Officer

(1) Provide the name and contact information of your Chief Compliance Officer. If you are an *exempt reporting adviser*, you must provide the contact information for your Chief Compliance Officer, if you have one. If not, you must complete Item 1.K. below.

____

(name)

____

(other titles, if any)

____________________ ____________________

(area code) (telephone number) (area code) (facsimile number, if any)

____

(number and street)

____

(city) (state/country) (zip+4/postal code)

____

(electronic mail (e-mail) address, if Chief Compliance Officer has one)

(2) If your Chief Compliance Officer is compensated or employed by any *person* other than you, a *related person* or an investment company registered under the Investment Company Act of 1940 that you advise for providing chief compliance officer services

to you, provide the *person's* name and IRS Employer Identification Number (if any):____.

K. Additional Regulatory Contact Person: If a person other than the Chief Compliance Officer is authorized to receive information and respond to questions about this Form ADV, you may provide that information here.

____
(name)

____
(titles)

________________________________ __________________________________
(area code) (telephone number) (area code) (facsimile number, if any)

____
(number and street)

____
(city) (state/country) (zip+4/postal code)

____
(electronic mail (e-mail) address, if contact person has one)

L. Do you maintain some or all of the books and records you are required to keep under Section 204 of the Advisers Act, or similar state law, somewhere other than your *principal office and place of business*?

Yes ☐ No ☐

If "yes," complete Section 1.L. of Schedule D.

M. Are you registered with a *foreign financial regulatory authority*? Yes ☐ No ☐

Answer "no" if you are not registered with a foreign financial regulatory authority, even if you have an affiliate that is registered with a foreign financial regulatory authority. If "yes," complete Section 1.M. of Schedule D.

N. Are you a public reporting company under Sections 12 or 15(d) of the Securities Exchange Act of 1934?

Yes ☐ No ☐

O. Did you have $1 billion or more in assets on the last day of your most recent fiscal year?

Yes ☐ No ☐

If yes, what is the approximate amount of your assets:

$1 billion to less than $10 billion ☐

$10 billion to less than $50 billion ☐

$50 billion or more ☐

For purposes of Item 1.O. only, "assets" refers to your total assets, rather than the assets you manage on behalf of clients. Determine your total assets using the total assets shown on the balance sheet for your most recent fiscal year end.

P. Provide your *Legal Entity Identifier* if you have one: ____________________________.

A *legal entity identifier* is a unique number that companies use to identify each other in the financial marketplace. You may not have a *legal entity identifier*.

Item 2

SEC Registration

Responses to this Item help us (and you) determine whether you are eligible to register with the SEC. Complete this Item 2.A. only if you are applying for SEC registration or submitting an *annual updating amendment* to your SEC registration. If you are filing an *umbrella registration*, the information in Item 2 should be provided for the *filing adviser* only.

A. To register (or remain registered) with the SEC, you must check **at least one** of the Items 2.A.(1) through 2.A.(12), below. If you are submitting an *annual updating amendment* to your SEC registration and you are no longer eligible to register with the SEC, check Item 2.A.(13). Part 1A Instruction 2 provides information to help you determine whether you may affirmatively respond to each of these items.

You (the adviser):

☐ (1) are a **large advisory firm** that either:

(a) has regulatory assets under management of $100 million (in U.S. dollars) or more; or

(b) has regulatory assets under management of $90 million (in U.S. dollars) or more at the time of filing its most recent *annual updating amendment* and is registered with the SEC;

☐ (2) are a **mid-sized advisory firm** that has regulatory assets under management of $25 million (in U.S. dollars) or more but less than $100 million (in U.S. dollars) and you are either:

(a) not required to be registered as an adviser with the *state securities authority* of the state where you maintain your *principal office and place of business*; or

(b) not subject to examination by the *state securities authority* of the state where you maintain your *principal office and place of business*;

*Click **HERE** for a list of states in which an investment adviser, if registered, would not be subject to examination by the state securities authority.*

☐ (3) have your *principal office and place of business* **in Wyoming** (which does not regulate advisers);

☐ (4) have your *principal office and place of business* **outside the United States**;

☐ (5) are **an investment adviser (or subadviser) to an investment company** registered under the Investment Company Act of 1940;

☐ (6) are **an investment adviser to a company which has elected to be a business development company** pursuant to section 54 of the Investment Company Act of 1940 and has not withdrawn the election, and you have at least $25 million of regulatory assets under management;

☐ (7) are a **pension consultant** with respect to assets of plans having an aggregate value of at least $200,000,000 that qualifies for the exemption in rule 203A-2(a);

☐ (8) are a **related adviser** under rule 203A-2(b) that *controls*, is *controlled* by, or is under common *control* with, an investment adviser that is registered with the SEC, and your *principal office and place of business* is the same as the registered adviser;

If you check this box, complete Section 2.A.(8) of Schedule D.

☐ (9) are an **adviser** relying on rule 203A-2(c) because you **expect to be eligible for SEC registration within 120 days**;

If you check this box, complete Section 2.A.(9) of Schedule D.

☐ (10) are a **multi-state adviser** that is required to register in 15 or more states and is relying on rule 203A-2(d);

If you check this box, complete Section 2.A.(10) of Schedule D.

☐ (11) are an **Internet adviser** relying on rule 203A-2(e);

☐ (12) have **received an SEC *order*** exempting you from the prohibition against registration with the SEC;

If you check this box, complete Section 2.A.(12) of Schedule D.

☐ (13) are **no longer eligible** to remain registered with the SEC.

SEC Reporting by *Exempt Reporting Advisers*

B. Complete this Item 2.B. only if you are reporting to the SEC as an *exempt reporting adviser*. Check all that apply. You:

☐ (1) qualify for the exemption from registration as an adviser solely to one or more venture capital funds, as defined in rule 203(l)-1;

☐ (2) qualify for the exemption from registration because you act solely as an adviser to *private funds* and have assets under management, as defined in rule 203(m)-1, in the United States of less than $150 million;

☐ (3) act solely as an adviser to *private funds* but you are no longer eligible to check box 2.B.(2) because you have assets under management, as defined in rule 203(m)-1, in the United States of $150 million or more.

If you check box (2) or (3), complete Section 2.B. of Schedule D.

State Securities Authority Notice Filings and State Reporting by *Exempt Reporting Advisers*

C. Under state laws, SEC-registered advisers may be required to provide to *state securities authorities* a copy of the Form ADV and any amendments they file with the SEC. These are called *notice filings*. In addition, *exempt reporting advisers* may be required to provide *state securities authorities* with a copy of reports and any amendments they file with the SEC. If this is an initial application or report, check the box(es) next to the state(s) that you would like to receive notice of this and all subsequent filings or reports you submit to the SEC. If this is an amendment to direct your *notice filings* or reports to additional state(s), check the box(es) next to the state(s) that you would like to receive notice of this and all subsequent filings or reports you submit to the SEC. If this is an amendment to your registration to stop your *notice filings* or reports from going to state(s) that currently receive them, uncheck the box(es) next to those state(s).

☐ AL ☐ CT ☐ HI ☐ KY ☐ MN ☐ NH ☐ OH ☐ SC ☐ VI
☐ AK ☐ DE ☐ ID ☐ LA ☐ MS ☐ NJ ☐ OK ☐ SD ☐ VA

☐ AZ
☐ AR
☐ CA
☐ CO
☐ DC
☐ FL
☐ GA
☐ GU
☐ IL
☐ IN
☐ IA
☐ KS
☐ ME
☐ MD
☐ MA
☐ MI
☐ MO
☐ MT
☐ NE
☐ NV
☐ NM
☐ NY
☐ NC
☐ ND
☐ OR
☐ PA
☐ PR
☐ RI
☐ TN
☐ TX
☐ UT
☐ VT
☐ WA
☐ WV
☐ WI

If you are amending your registration to stop your notice filings or reports from going to a state that currently receives them and you do not want to pay that state's notice filing or report filing fee for the coming year, your amendment must be filed before the end of the year (December 31).

Item 3 Form of Organization

If you are filing an *umbrella registration*, the information in Item 3 should be provided for the *filing adviser* only.

A. How are you organized?

☐ Corporation ☐ Sole Proprietorship ☐ Limited Liability Partnership (LLP)
☐ Partnership ☐ Limited Liability Company (LLC) ☐ Limited Partnership (LP)
☐ Other (specify):____

If you are changing your response to this Item, see Part 1A Instruction 4.

B. In what month does your fiscal year end each year? ________________________

C. Under the laws of what state or country are you organized? ____________________

If you are a partnership, provide the name of the state or country under whose laws your partnership was formed. If you are a sole proprietor, provide the name of the state or country where you reside.

If you are changing your response to this Item, see Part 1A Instruction 4.

Item 4 Successions

A. Are you, at the time of this filing, succeeding to the business of a registered investment adviser, including, for example, a change of your structure or legal status (*e.g.*, form of organization or state of incorporation)?

☐ Yes ☐ No

If "yes," complete Item 4.B. and Section 4 of Schedule D.

B. Date of Succession: ____________________
(mm/dd/yyyy)

If you have already reported this succession on a previous Form ADV filing, do not report the succession again. Instead, check "No." See Part 1A Instruction 4.

Item 5 Information About Your Advisory Business

Responses to this Item help us understand your business, assist us in preparing for on-site examinations, and provide us with data we use when making regulatory policy. Part 1A Instruction 5.a. provides additional guidance to newly formed advisers for completing this Item 5.

Employees

If you are organized as a sole proprietorship, include yourself as an employee in your responses to Item 5.A. and Items 5.B.(1), (2), (3), (4), and (5). If an employee performs more than one function, you should count that employee in each of your responses to Items 5.B.(1), (2), (3), (4) and (5).

A. Approximately how many *employees* do you have? Include full- and part-time *employees* but do not include any clerical workers.

____

B. (1) Approximately how many of the *employees* reported in 5.A. perform investment advisory functions (including research)?

____

(2) Approximately how many of the *employees* reported in 5.A. are registered representatives of a broker-dealer?

____

(3) Approximately how many of the *employees* reported in 5.A. are registered with one or more *state securities authorities* as *investment adviser representatives*?

____

(4) Approximately how many of the *employees* reported in 5.A. are registered with one or more *state securities authorities* as *investment adviser representatives* for an investment adviser other than you?

____

(5) Approximately how many of the *employees* reported in 5.A. are licensed agents of an insurance company or agency?

____

(6) Approximately how many firms or other *persons* solicit advisory *clients* on your behalf?

____

In your response to Item 5.B.(6), do not count any of your employees and count a firm only once - do not count each of the firm's employees that solicit on your behalf.

Clients

In your responses to Items 5.C. and 5.D. do not include as "clients" the investors in a private fund you advise, unless you have a separate advisory relationship with those investors.

C. (1) To approximately how many *clients* for whom you do not have regulatory assets under management did you provide investment advisory services during your most recently completed fiscal year? ________________

(2) Approximately what percentage of your *clients* are non-*United States persons*? ______%

D. *For purposes of this Item 5.D., the category "individuals" includes trusts, estates, and 401(k) plans and IRAs of individuals and their family members, but does not include businesses organized as sole proprietorships.*
The category "business development companies" consists of companies that have made an election pursuant to section 54 of the Investment Company Act of 1940. Unless you provide advisory services pursuant to an investment advisory contract to an investment company registered under the Investment Company Act of 1940, do not answer (d)(1) or (d)(3) below.

Indicate the approximate number of your *clients* and amount of your total regulatory assets under management (reported in Item 5.F. below) attributable to each of the following type of *client*. If you have fewer than 5 *clients* in a particular category (other than (d), (e), and (f)) you may check Item 5.D.(2) rather than respond to Item 5.D.(1).

The aggregate amount of regulatory assets under management reported in Item 5.D.(3) should equal the total amount of regulatory assets under management reported in Item 5.F.(2)(c) below.

If a *client* fits into more than one category, select one category that most accurately represents the client to avoid double counting *clients* and assets. If you advise a registered investment company, business development company, or pooled investment vehicle, report those assets in categories (d), (e), and (f) as applicable.

Type of *Client*	(1) Number of *Client(s)*	(2) Fewer than 5 *Clients*	(3) Amount of Regulatory Assets under Management
(a) Individuals (other than *high net worth individuals*)			
(b) *High net worth individuals*			
(c) Banking or thrift institutions			
(d) Investment companies		☒	
(e) Business development companies		☒	
(f) Pooled investment vehicles (other than investment companies and business development companies)		☒	
(g) Pension and profit sharing plans (but not the plan participants or government pension plans)			
(h) Charitable organizations			
(i) State or municipal *government entities* (including government pension plans)			
(j) Other investment advisers			
(k) Insurance companies			
(l) Sovereign wealth funds and foreign official institutions			
(m) Corporations or other businesses not listed above			
(n) Other: __________			

Compensation Arrangements

E. You are compensated for your investment advisory services by (check all that apply):

☐ (1) A percentage of assets under your management
☐ (2) Hourly charges
☐ (3) Subscription fees (for a newsletter or periodical)
☐ (4) Fixed fees (other than subscription fees)
☐ (5) Commissions
☐ (6) *Performance-based fees*
☐ (7) Other (specify): ____

Regulatory Assets Under Management

F. (1) Do you provide continuous and regular supervisory or management services to securities portfolios? ☐ Yes ☐ No

(2) If yes, what is the amount of your regulatory assets under management and total number of accounts?

	U.S. Dollar Amount	Total Number of Accounts
Discretionary:	(a) $____________.00	(d) ____________
Non-Discretionary:	(b) $____________.00	(e) ____________
Total:	(c) $____________.00	(f) ____________

Part 1A Instruction 5.b. explains how to calculate your regulatory assets under management. You must follow these instructions carefully when completing this Item.

(3) What is the approximate amount of your total regulatory assets under management (reported in Item 5.F.(2)(c) above) attributable to *clients* who are non-*United States persons*? ____________

Advisory Activities

G. What type(s) of advisory services do you provide? Check all that apply.

☐ (1) Financial planning services
☐ (2) Portfolio management for individuals and/or small businesses
☐ (3) Portfolio management for investment companies (as well as "business development companies" that have made an election pursuant to section 54 of the Investment Company Act of 1940)
☐ (4) Portfolio management for pooled investment vehicles (other than investment companies)
☐ (5) Portfolio management for businesses (other than small businesses) or institutional *clients* (other than registered investment companies and other pooled investment vehicles)
☐ (6) Pension consulting services

☐ (7) Selection of other advisers (including *private fund* managers)
☐ (8) Publication of periodicals or newsletters
☐ (9) Security ratings or pricing services
☐ (10) Market timing services
☐ (11) Educational seminars/workshops
☐ (12) Other (specify):____

Do not check Item 5.G.(3) unless you provide advisory services pursuant to an investment advisory contract to an investment company registered under the Investment Company Act of 1940, including as a subadviser. If you check Item 5.G.(3), report the 811 or 814 number of the investment company or investment companies to which you provide advice in Section 5.G.(3) of Schedule D.

H. If you provide financial planning services, to how many *clients* did you provide these services during your last fiscal year?
☐ 0 ☐ 1-10 ☐ 11-25 ☐ 26-50 ☐ 51-100 ☐ 101-250 ☐ 251-500
☐ More than 500 If more than 500, how many? _______ (round to the nearest 500)

In your responses to this Item 5.H., do not include as "clients" the investors in a private fund you advise, unless you have a separate advisory relationship with those investors.

I. (1) Do you participate in a *wrap fee program*? ☐ Yes ☐ No

(2) If you participate in a *wrap fee program*, what is the amount of your regulatory assets under management attributable to acting as:

(a) *sponsor* to a *wrap fee program* $_________

(b) portfolio manager for a *wrap fee program*? $_________

(c) *sponsor* to and portfolio manager for the same wrap fee program? $_________

If you report an amount in Item 5.I.(2)(c), do not report that amount in Item 5.I.(2)(a) or Item 5.I.(2)(b).

If you are a portfolio manager for a wrap fee program, list the names of the programs, their sponsors and related information in Section 5.I.(2) of Schedule D.

If your involvement in a wrap fee program is limited to recommending wrap fee programs to your clients, or you advise a mutual fund that is offered through a wrap fee program, do not check Item 5.I.(1) or enter any amounts in response to Item 5.I.(2).

J. (1) In response to Item 4.B. of Part 2A of Form ADV, do you indicate that you provide investment advice only with respect to limited types of investments?
☐ Yes ☐ No

(2) Do you report *client* assets in Item 4.E. of Part 2A that are computed using a different method than the method used to compute your regulatory assets under management?
☐ Yes ☐ No

K. Separately Managed Account *Clients*

(1) Do you have regulatory assets under management attributable to *clients* other than those listed in Item 5.D.(3)(d)-(f) (separately managed account *clients*)?
☐ Yes ☐ No

If yes, complete Section 5.K.(1) of Schedule D.

(2) Do you engage in borrowing transactions on behalf of any of the separately managed account *clients* that you advise? ☐ Yes ☐ No

If yes, complete Section 5.K.(2) of Schedule D.

(3) Do you engage in derivative transactions on behalf of any of the separately managed account *clients* that you advise? ☐ Yes ☐ No

If yes, complete Section 5.K.(2) of Schedule D.

(4) After subtracting the amounts in Item 5.D.(3)(d)-(f) above from your total regulatory assets under management, does any custodian hold ten percent or more of this remaining amount of regulatory assets under management? ☐ Yes ☐ No

If yes, complete Section 5.K.(3) of Schedule D for each custodian.

Item 6 Other Business Activities

In this Item, we request information about your firm's other business activities.

A. You are actively engaged in business as a (check all that apply):

☐ (1) broker-dealer (registered or unregistered)
☐ (2) registered representative of a broker-dealer
☐ (3) commodity pool operator or commodity trading advisor (whether registered or exempt from registration)
☐ (4) futures commission merchant
☐ (5) real estate broker, dealer, or agent
☐ (6) insurance broker or agent
☐ (7) bank (including a separately identifiable department or division of a bank)
☐ (8) trust company
☐ (9) registered municipal advisor
☐ (10) registered security-based swap dealer
☐ (11) major security-based swap participant

☐ (12) accountant or accounting firm
☐ (13) lawyer or law firm
☐ (14) other financial product salesperson (specify):_______________________________

If you engage in other business using a name that is different from the names reported in Items 1.A. or 1.B.(1), complete Section 6.A. of Schedule D.

B. (1) Are you actively engaged in any other business not listed in Item 6.A. (other than giving investment advice)? ☐ Yes ☐ No

(2) If yes, is this other business your primary business? ☐ Yes ☐ No

If "yes," describe this other business on Section 6.B.(2) of Schedule D, and if you engage in this business under a different name, provide that name.

(3) Do you sell products or provide services other than investment advice to your advisory *clients*? ☐ Yes ☐ No

If "yes," describe this other business on Section 6.B.(3) of Schedule D, and if you engage in this business under a different name, provide that name.

Item 7 Financial Industry Affiliations and *Private Fund* Reporting

In this Item, we request information about your financial industry affiliations and activities. This information identifies areas in which conflicts of interest may occur between you and your *clients*.

A. This part of Item 7 requires you to provide information about you and your *related persons*, including foreign affiliates. Your *related persons* are all of your *advisory affiliates* and any *person* that is under common *control* with you.

You have a *related person* that is a (check all that apply):

☐ (1) broker-dealer, municipal securities dealer, or government securities broker or dealer (registered or unregistered)
☐ (2) other investment adviser (including financial planners)
☐ (3) registered municipal advisor
☐ (4) registered security-based swap dealer
☐ (5) major security-based swap participant
☐ (6) commodity pool operator or commodity trading advisor (whether registered or exempt from registration)
☐ (7) futures commission merchant
☐ (8) banking or thrift institution
☐ (9) trust company
☐ (10) accountant or accounting firm

☐ (11) lawyer or law firm
☐ (12) insurance company or agency
☐ (13) pension consultant
☐ (14) real estate broker or dealer
☐ (15) sponsor or syndicator of limited partnerships (or equivalent), excluding pooled investment vehicles
☐ (16) sponsor, general partner, managing member (or equivalent) of pooled investment vehicles

Note that Item 7.A. should not be used to disclose that some of your employees perform investment advisory functions or are registered representatives of a broker-dealer. The number of your firm's employees who perform investment advisory functions should be disclosed under Item 5.B.(1). The number of your firm's employees who are registered representatives of a broker-dealer should be disclosed under Item 5.B.(2).

Note that if you are filing an umbrella registration, you should not check Item 7.A.(2) with respect to your relying advisers, and you do not have to complete Section 7.A. in Schedule D for your relying advisers. You should complete a Schedule R for each relying adviser.

For each related person, including foreign affiliates that may not be registered or required to be registered in the United States, complete Section 7.A. of Schedule D.

You do not need to complete Section 7.A. of Schedule D for any related person if: (1) you have no business dealings with the related person in connection with advisory services you provide to your clients; (2) you do not conduct shared operations with the related person; (3) you do not refer clients or business to the related person, and the related person does not refer prospective clients or business to you; (4) you do not share supervised persons or premises with the related person; and (5) you have no reason to believe that your relationship with the related person otherwise creates a conflict of interest with your clients.

You must complete Section 7.A. of Schedule D for each related person acting as qualified custodian in connection with advisory services you provide to your clients (other than any mutual fund transfer agent pursuant to rule 206(4)-2(b)(1)), regardless of whether you have determined the related person to be operationally independent under rule 206(4)-2 of the Advisers Act.

B. Are you an adviser to any *private fund*? ☐ Yes ☐ No

If "yes," then for each private fund that you advise, you must complete a Section 7.B.(1) of Schedule D, except in certain circumstances described in the next sentence and in Instruction 6 of the Instructions to Part 1A. If you are registered or applying for registration with the SEC or reporting as an SEC exempt reporting adviser, and another SEC-registered adviser or SEC exempt reporting adviser reports this information with respect to any such private fund in Section 7.B.(1) of Schedule D of its Form ADV (e.g., if *you are a subadviser), do not complete Section 7.B.(1) of Schedule D with respect to that private fund. You must, instead, complete Section 7.B.(2) of Schedule D.*

In either case, if you seek to preserve the anonymity of a private fund client by maintaining its identity in your books and records in numerical or alphabetical code, or similar designation, pursuant to rule 204-2(d), you may identify the private fund in Section 7.B.(1) or 7.B.(2) of Schedule D using the same code or designation in place of the fund's name.

Item 8 Participation or Interest in *Client* Transactions

In this Item, we request information about your participation and interest in your *clients'* transactions. This information identifies additional areas in which conflicts of interest may occur between you and your *clients*. Newly-formed advisers should base responses to these questions on the types of participation and interest that you expect to engage in during the next year.

Like Item 7, Item 8 requires you to provide information about you and your *related persons*, including foreign affiliates.

Proprietary Interest in *Client* Transactions

A. Do you or any *related person*:

	Yes	No
(1) buy securities for yourself from advisory *clients*, or sell securities you own to advisory *clients* (principal transactions)?	☐	☐
(2) buy or sell for yourself securities (other than shares of mutual funds) that you also recommend to advisory *clients*?	☐	☐
(3) recommend securities (or other investment products) to advisory *clients* in which you or any *related person* has some other proprietary (ownership) interest (other than those mentioned in Items 8.A.(1) or (2))?	☐	☐

Sales Interest in *Client* Transactions

B. Do you or any *related person*:

	Yes	No
(1) as a broker-dealer or registered representative of a broker-dealer, execute securities trades for brokerage customers in which advisory *client* securities are sold to or bought from the brokerage customer (agency cross transactions)?	☐	☐
(2) recommend to advisory *clients*, or act as a purchaser representative for advisory *clients* with respect to, the purchase of securities for which you or any *related person* serves as underwriter or general		

or managing partner? ☐ ☐

(3) recommend purchase or sale of securities to advisory *clients* for which you or any *related person* has any other sales interest (other than the receipt of sales commissions as a broker or registered representative of a broker-dealer)? ☐ ☐

Investment or Brokerage Discretion

	Yes	No
C. Do you or any *related person* have *discretionary authority* to determine the:		
(1) securities to be bought or sold for a *client's* account?	☐	☐
(2) amount of securities to be bought or sold for a *client's* account?	☐	☐
(3) broker or dealer to be used for a purchase or sale of securities for a *client's* account?	☐	☐
(4) commission rates to be paid to a broker or dealer for a *client's* securities transactions?	☐	☐
D. If you answer "yes" to C.(3) above, are any of the brokers or dealers *related persons*?	☐	☐
E. Do you or any *related person* recommend brokers or dealers to *clients*?	☐	☐
F. If you answer "yes" to E. above, are any of the brokers or dealers *related persons*?	☐	☐
G. (1) Do you or any *related person* receive research or other products or services other than execution from a broker-dealer or a third party ("soft dollar benefits") in connection with *client* securities transactions?	☐	☐
(2) If "yes" to G.(1) above, are all the "soft dollar benefits" you or any *related persons* receive eligible "research or brokerage services" under section 28(e) of the Securities Exchange Act of 1934?	☐	☐
H. (1) Do you or any *related person*, directly or indirectly, compensate any *person* that is not an *employee* for *client* referrals?	☐	☐
(2) Do you or any *related person*, directly or indirectly, provide any *employee* compensation that is specifically related to obtaining *clients* for the firm (cash or non-cash compensation in addition to the *employee's* regular salary)?	☐	☐

I. Do you or any *related person*, including any *employee*, directly or indirectly, receive compensation from any *person* (other than you or any *related person*) for *client* referrals?	☐	☐

In your response to Item 8.I., do not include the regular salary you pay to an employee.

In responding to Items 8.H. and 8.I., consider all cash and non-cash compensation that you or a related person gave to (in answering Item 8.H.) or received from (in answering Item 8.I.) any person in exchange for client referrals, including any bonus that is based, at least in part, on the number or amount of client referrals.

Item 9 Custody

In this Item, we ask you whether you or a *related person* has *custody* of *client* (other than *clients* that are investment companies registered under the Investment Company Act of 1940) assets and about your custodial practices.

A. (1) Do you have *custody* of any advisory *clients'*:	Yes	No
(a) cash or bank accounts ?	☐	☐
(b) securities?	☐	☐

If you are registering or registered with the SEC, answer "No" to Item 9.A.(1)(a) and (b) if you have custody solely because (i) you deduct your advisory fees directly from your clients' accounts, or (ii) a related person has custody of client assets in connection with advisory services you provide to clients, but you have overcome the presumption that you are not operationally independent (pursuant to Advisers Act rule 206(4)-2(d)(5)) from the related person.

(2) If you checked "yes" to Item 9.A.(1)(a) or (b), what is the approximate amount of *client* funds and securities and total number of *clients* for which you have *custody*:

U.S. Dollar Amount	Total Number of *Clients*
(a) $_______________	(b) _________________

If you are registering or registered with the SEC and you have custody solely because you deduct your advisory fees directly from your clients' accounts, do not include the amount of those assets and the number of those clients in your response to Item 9.A.(2). If your related person has custody of client assets in connection with advisory services you provide to clients, do not include the amount of those assets and the number of those clients in your response to Item 9.A.(2). Instead, include that information in your response to Item 9.B.(2).

B. (1) In connection with advisory services you provide to *clients*, do any of your *related persons* have *custody* of any of your advisory *clients'*:

	Yes	No
(a) cash or bank accounts?	☐	☐
(b) securities?	☐	☐

You are required to answer this item regardless of how you answered Item 9.A.(1)(a) or (b).

(2) If you checked "yes" to Item 9.B.(1)(a) or (b), what is the approximate amount of *client* funds and securities and total number of *clients* for which your *related persons* have *custody:*

U.S. Dollar Amount	Total Number of *Clients*
(a) $______________	(b) ________________

C. If you or your *related persons* have *custody* of *client* funds or securities in connection with advisory services you provide to *clients*, check all the following that apply:

☐ (1) A qualified custodian(s) sends account statements at least quarterly to the investors in the pooled investment vehicle(s) you manage.

☐ (2) An *independent public accountant* audits annually the pooled investment vehicle(s) that you manage and the audited financial statements are distributed to the investors in the pools.

☐ (3) An *independent public accountant* conducts an annual surprise examination of *client* funds and securities.

☐ (4) An *independent public accountant* prepares an internal control report with respect to custodial services when you or your *related persons* are qualified custodians for *client* funds and securities.

If you checked Item 9.C.(2), C.(3) or C.(4), list in Section 9.C. of Schedule D the accountants that are engaged to perform the audit or examination or prepare an internal control report. (If you checked Item 9.C.(2), you do not have to list auditor information in Section 9.C. of Schedule D if you already provided this information with respect to the private funds you advise in Section 7.B.(1) of Schedule D).

D. Do you or your *related person*(s) act as qualified custodians for your *clients* in connection with advisory services you provide to *clients*?

	Yes	No
(1) you act as a qualified custodian	☐	☐
(2) your *related person(s)* act as qualified custodian(s)	☐	☐

If you checked "yes" to Item 9.D.(2), all related persons that act as qualified custodians (other than any mutual fund transfer agent pursuant to rule 206(4)-2(b)(1)) must be identified in Section 7.A. of Schedule D, regardless of whether you have determined the related person to be operationally independent under rule 206(4)-2 of the Advisers Act.

E. If you are filing your *annual updating amendment* and you were subject to a surprise examination by an *independent public accountant* during your last fiscal year, provide the date (MM/YYYY) the examination commenced: ____________________

F. If you or your *related persons* have *custody* of *client* funds or securities, how many *persons*, including, but not limited to, you and your *related persons*, act as qualified custodians for your *clients* in connection with advisory services you provide to *clients*?

____

Item 10 Control Persons

In this Item, we ask you to identify every *person* that, directly or indirectly, *controls* you. If you are filing an *umbrella registration*, the information in Item 10 should be provided for the *filing adviser* only.

If you are submitting an initial application or report, you must complete Schedule A and Schedule B. Schedule A asks for information about your direct owners and executive officers. Schedule B asks for information about your indirect owners. If this is an amendment and you are updating information you reported on either Schedule A or Schedule B (or both) that you filed with your initial application or report, you must complete Schedule C.

A. Does any *person* not named in Item 1.A. or Schedules A, B, or C, directly or indirectly, *control* your management or policies? ☐ Yes ☐ No

If yes, complete Section 10.A. of Schedule D.

B. If any *person* named in Schedules A, B, or C or in Section 10.A. of Schedule D is a public reporting company under Sections 12 or 15(d) of the Securities Exchange Act of 1934, please complete Section 10.B. of Schedule D.

Item 11 Disclosure Information

In this Item, we ask for information about your disciplinary history and the disciplinary history of all your *advisory affiliates*. We use this information to determine whether to grant your application for registration, to decide whether to revoke your registration or to place limitations on your activities as an investment adviser, and to identify potential problem areas to focus on during our on-site examinations. One event may result in "yes" answers to more than one of the questions below. In accordance with General Instruction 5 to Form ADV, "you" and "your" include the *filing adviser* and all *relying advisers* under an *umbrella registration*.

Your *advisory affiliates* are: (1) all of your current *employees* (other than *employees* performing only clerical, administrative, support or similar functions); (2) all of your officers, partners, or directors (or any *person* performing similar functions); and (3) all *persons* directly or indirectly *controlling* you or *controlled* by you. If you are a "separately identifiable department or division" (SID) of a bank, see the Glossary of Terms to determine who your *advisory affiliates* are.

If you are registered or registering with the SEC or if you are an exempt reporting adviser, you may limit your disclosure of any event listed in Item 11 to ten years following the date of the event. If you are registered or registering with a state, you must respond to the questions as posed; you may, therefore, limit your disclosure to ten years following the date of an event only in responding to Items 11.A.(1), 11.A.(2), 11.B.(1), 11.B.(2), 11.D.(4), and 11.H.(1)(a). For purposes of calculating this ten-year period, the date of an event is the date the final order, judgment, or decree was entered, or the date any rights of appeal from preliminary orders, judgments, or decrees lapsed.

You must complete the appropriate Disclosure Reporting Page ("DRP") for "yes" answers to the questions in this Item 11.

	Yes	No
Do any of the events below involve you or any of your *supervised persons*?	☐	☐

For "yes" answers to the following questions, complete a Criminal Action DRP:

	Yes	No
A. In the past ten years, have you or any *advisory affiliate*:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐

If you are registered or registering with the SEC, or if you are reporting as an exempt reporting adviser, you may limit your response to Item 11.A.(2) to charges that are currently pending.

	Yes	No
B. In the past ten years, have you or any *advisory affiliate*:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a *misdemeanor* involving: investments or an *investment-related* business, or any fraud, false statements, or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?	☐	☐

(2) been *charged* with a *misdemeanor* listed in Item 11.B.(1)? ☐ ☐

If you are registered or registering with the SEC, or if you are reporting as an exempt reporting adviser, you may limit your response to Item 11.B.(2) to charges that are currently pending.

For "yes" answers to the following questions, complete a Regulatory Action DRP:

	Yes	No
C. Has the SEC or the Commodity Futures Trading Commission (CFTC) ever:		
(1) *found* you or any *advisory affiliate* to have made a false statement or omission?	☐	☐
(2) *found* you or any *advisory affiliate* to have been *involved* in a violation of SEC or CFTC regulations or statutes?	☐	☐
(3) *found* you or any *advisory affiliate* to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	☐	☐
(4) entered an *order* against you or any *advisory affiliate* in connection with *investment-related* activity?	☐	☐
(5) imposed a civil money penalty on you or any *advisory affiliate*, or *ordered* you or any *advisory affiliate* to cease and desist from any activity?	☐	☐
D. Has any other federal regulatory agency, any state regulatory agency, or any *foreign financial regulatory authority*:		
(1) ever *found* you or any *advisory affiliate* to have made a false statement or omission, or been dishonest, unfair, or unethical?	☐	☐
(2) ever *found* you or any *advisory affiliate* to have been *involved* in a violation of *investment-related* regulations or statutes?	☐	☐
(3) ever *found* you or any *advisory affiliate* to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	☐	☐
(4) in the past ten years, entered an *order* against you or any *advisory affiliate* in connection with an *investment-related* activity?	☐	☐
(5) ever denied, suspended, or revoked your or any *advisory affiliate's* registration or license, or otherwise prevented you or any *advisory*		

affiliate, by *order*, from associating with an *investment-related* business or restricted your or any *advisory affiliate's* activity? ☐ ☐

E. Has any *self-regulatory organization* or commodities exchange ever:

(1) *found* you or any *advisory affiliate* to have made a false statement or omission? ☐ ☐

(2) *found* you or any *advisory affiliate* to have been *involved* in a violation of its rules (other than a violation designated as a *"minor rule violation"* under a plan approved by the SEC)? ☐ ☐

(3) *found* you or any *advisory affiliate* to have been the cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted? ☐ ☐

(4) disciplined you or any *advisory affiliate* by expelling or suspending you or the *advisory affiliate* from membership, barring or suspending you or the *advisory affiliate* from association with other members, or otherwise restricting your or the *advisory affiliate's* activities? ☐ ☐

F. Has an authorization to act as an attorney, accountant, or federal contractor granted to you or any *advisory affiliate* ever been revoked or suspended? ☐ ☐

G. Are you or any *advisory affiliate* now the subject of any regulatory *proceeding* that could result in a "yes" answer to any part of Item 11.C., 11.D., or 11.E.? ☐ ☐

For "yes" answers to the following questions, complete a Civil Judicial Action DRP:

Yes No

H. (1) Has any domestic or foreign court:

(a) in the past ten years, *enjoined* you or any *advisory affiliate* in connection with any *investment-related* activity? ☐ ☐

(b) ever *found* that you or any *advisory affiliate* were *involved* in a violation of *investment-related* statutes or regulations? ☐ ☐

(c) ever dismissed, pursuant to a settlement agreement, an *investment-related* civil action brought against you or any *advisory affiliate* by a state or *foreign financial regulatory authority*? ☐ ☐

(2) Are you or any *advisory affiliate* now the subject of any civil *proceeding* that could result in a "yes" answer to any part of Item 11.H.(1)? ☐ ☐

Item 12 Small Businesses

The SEC is required by the Regulatory Flexibility Act to consider the effect of its regulations on small entities. In order to do this, we need to determine whether you meet the definition of "small business" or "small organization" under rule 0-7.

Answer this Item 12 only if you are registered or registering with the SEC and you indicated in response to Item 5.F.(2)(c) that you have regulatory assets under management of less than $25 million. You are not required to answer this Item 12 if you are filing for initial registration as a state adviser, amending a current state registration, or switching from SEC to state registration.

For purposes of this Item 12 only:

- Total Assets refers to the total assets of a firm, rather than the assets managed on behalf of *clients*. In determining your or another *person's* total assets, you may use the total assets shown on a current balance sheet (but use total assets reported on a consolidated balance sheet with subsidiaries included, if that amount is larger).

- *Control* means the power to direct or cause the direction of the management or policies of a *person*, whether through ownership of securities, by contract, or otherwise. Any *person* that directly or indirectly has the right to vote 25 percent or more of the voting securities, or is entitled to 25 percent or more of the profits, of another *person* is presumed to *control* the other *person*.

Yes No

A. Did you have total assets of $5 million or more on the last day of your most recent fiscal year? ☐ ☐

If "yes," you do not need to answer Items 12.B. and 12.C.

B. Do you:

(1) *control* another investment adviser that had regulatory assets under management (calculated in response to Item 5.F.(2)(c) of Form ADV) of $25 million or more on the last day of its most recent fiscal year? ☐ ☐

(2) *control* another *person* (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year? ☐ ☐

C. Are you:

(1) *controlled* by or under common *control* with another investment adviser that had regulatory assets under management (calculated in response to Item 5.F.(2)(c) of Form ADV) of $25 million or more on the last day of its most recent fiscal year?	☐	☐
(2) *controlled* by or under common *control* with another *person* (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year?	☐	☐

FORM ADV

Schedule A

Direct Owners and Executive Officers

1. Complete Schedule A only if you are submitting an initial application or report. Schedule A asks for information about your direct owners and executive officers. Use Schedule C to amend this information.

2. Direct Owners and Executive Officers. List below the names of:

   (a) each Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer (Chief Compliance Officer is required if you are registered or applying for registration and cannot be more than one individual), director and any other individuals with similar status or functions;

   (b) if you are organized as a corporation, each shareholder that is a direct owner of 5% or more of a class of your voting securities, unless you are a public reporting company (a company subject to Section 12 or 15(d) of the Exchange Act);

   Direct owners include any *person* that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 5% or more of a class of your voting securities. For purposes of this Schedule, a *person* beneficially owns any securities: (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the security.

   (c) if you are organized as a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 5% or more of your capital;

   (d) in the case of a trust that directly owns 5% or more of a class of your voting securities, or that has the right to receive upon dissolution, or has contributed, 5% or more of your capital, the trust and each trustee; and

   (e) if you are organized as a limited liability company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 5% or more of your capital, and (ii) if managed by elected managers, all elected managers.

3. Do you have any indirect owners to be reported on Schedule B? ☐ Yes ☐ No

4. In the DE/FE/I column below, enter "DE" if the owner is a domestic entity, "FE" if the owner is an entity incorporated or domiciled in a foreign country, or "I" if the owner or executive officer is an individual.

5. Complete the Title or Status column by entering board/management titles; status as partner, trustee, sole proprietor, elected manager, shareholder, or member; and for shareholders or members, the class of securities owned (if more than one is issued).

6. Ownership codes are:
   NA - less than 5%
   A - 5% but less than 10%
   B - 10% but less than 25%
   C - 25% but less than 50%
   D - 50% but less than 75%
   E - 75% or more

7. (a) In the *Control Person* column, enter "Yes" if the *person* has *control* as defined in the Glossary of Terms to Form ADV, and enter "No" if the *person* does not have *control.* Note that under this definition, most executive officers and all 25% owners, general partners, elected managers, and trustees are *control persons*.
   (b) In the PR column, enter "PR" if the owner is a public reporting company under Sections 12 or 15(d) of the Exchange Act.
   (c) Complete each column.

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Title or Status	Date Title or Status Acquired MM/YYYY	Ownership Code	*Control Person* PR	*CRD* No. If None: S.S. No. and Date of Birth, IRS Tax No. or Employer ID No.

FORM ADV
Schedule B

Indirect Owners

1. Complete Schedule B only if you are submitting an initial application or report. Schedule B asks for information about your indirect owners; you must first complete Schedule A, which asks for information about your direct owners. Use Schedule C to amend this information.

2. Indirect Owners. With respect to each owner listed on Schedule A (except individual owners), list below:

   (a) in the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25% or more of a class of a voting security of that corporation;

   For purposes of this Schedule, a *person* beneficially owns any securities: (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the security.

   (b) in the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25% or more of the partnership's capital;

   (c) in the case of an owner that is a trust, the trust and each trustee; and

   (d) in the case of an owner that is a limited liability company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 25% or more of the LLC's capital, and (ii) if managed by elected managers, all elected managers.

3. Continue up the chain of ownership listing all 25% owners at each level. Once a public reporting company (a company subject to Sections 12 or 15(d) of the Exchange Act) is reached, no further ownership information need be given.

4. In the DE/FE/I column below, enter "DE" if the owner is a domestic entity, "FE" if the owner is an entity incorporated or domiciled in a foreign country, or "I" if the owner is an individual.

5. Complete the Status column by entering the owner's status as partner, trustee, elected manager, shareholder, or member; and for shareholders or members, the class of securities owned (if more than one is issued).

6. Ownership codes are:
C - 25% but less than 50%
D - 50% but less than 75%
E - 75% or more
F - Other (general partner, trustee, or elected manager)

7. (a) In the *Control Person* column, enter "Yes" if the *person* has *control* as defined in the Glossary of Terms to Form ADV, and enter "No" if the *person* does not have *control*. Note that under this definition, most executive officers and all 25% owners, general partners, elected managers, and trustees are *control persons*.
(b) In the PR column, enter "PR" if the owner is a public reporting company under Sections 12 or 15(d) of the Exchange Act.
(c) Complete each column.

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Entity in Which Interest is Owned	Status	Date Status Acquired MM/YYYY	Ownership Code	*Control Person*	PR	*CRD* No. If None: S.S. No. and Date of Birth, IRS Tax No. or Employer ID No.

FORM ADV

Schedule C

Amendments to Schedules A and B

1. Use Schedule C only to amend information requested on either Schedule A or Schedule B. Refer to Schedule A and Schedule B for specific instructions for completing this Schedule C. Complete each column.

2. In the Type of Amendment column, indicate "A" (addition), "D" (deletion), or "C" (change in information about the same *person*).

3. Ownership codes are:
   - NA - less than 5%
   - A - 5% but less than 10%
   - B - 10% but less than 25%
   - C - 25% but less than 50%
   - D - 50% but less than 75%
   - E - 75% or more
   - G - Other (general partner, trustee, or elected member)

4. List below all changes to Schedule A (Direct Owners and Executive Officers):

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Type of Amendment	Title or Status	Date Title or Status Acquired MM/YYYY	Ownership Code	*Control Person* PR	*CRD* No. If None: S.S. No. and Date of Birth, IRS Tax No. or Employer ID No.

5. List below all changes to Schedule B (Indirect Owners):

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE /I	Type of Amendment	Title or Status	Date Title or Status Acquired MM/YYYY	Ownership Code	*Control Person* PR	*CRD* No. If None: S.S. No. and Date of Birth, IRS Tax No. or Employer ID No.

FORM ADV

Schedule D

Certain items in Part 1A of Form ADV require additional information on Schedule D. Use this Schedule D to report details for items listed below. Report only new information or changes/updates to previously submitted information. Do not repeat previously submitted information.

This is an ☐ INITIAL or ☐ AMENDED Schedule D

SECTION 1.B. Other Business Names

List your other business names and the jurisdictions in which you use them. You must complete a separate Schedule D Section 1.B. for each business name.

Check only one box: ☐ Add ☐ Delete ☐ Amend

Name ______________________ Jurisdictions ______________________

SECTION 1.F. Other Offices

Complete the following information for each office, other than your *principal office and place of business*, at which you conduct investment advisory business. You must complete a separate Schedule D Section 1.F. for each location. If you are applying for SEC registration, if you are registered only with the SEC, or if you are an *exempt reporting adviser*, list only the largest twenty-five offices (in terms of numbers of *employees*).

Check only one box: ☐ Add ☐ Delete

____
(number and street)

____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

______________________ ______________________
(area code) (telephone number) (area code) (facsimile number, if any)

If this office location is also required to be registered with FINRA or a *state securities authority* as a branch office location for a broker-dealer or investment adviser on the Uniform Branch Office Registration Form (Form BR), please provide the *CRD* Branch Number here:__________

How many *employees* perform investment advisory functions from this office location? _______

Are other business activities conducted at this office location? (check all that apply)

☐ (1) Broker-dealer (registered or unregistered)

☐ (2) Bank (including a separately identifiable department or division of a bank)

☐ (3) Insurance broker or agent

☐ (4) Commodity pool operator or commodity trading advisor (whether registered or exempt from registration)

☐ (5) Registered municipal advisor

☐ (6) Accountant or accounting firm

☐ (7) Lawyer or law firm

Describe any other *investment-related* business activities conducted from this office location:

____

SECTION 1.I. Website Addresses

List your website addresses, including addresses for accounts on publicly available social media platforms where you control the content (including, but not limited to, Twitter, Facebook and/or LinkedIn). You must complete a separate Schedule D Section 1.I. for each website or account on a publicly available social media platform.

Check only one box: ☐ Add ☐ Delete

Address of Website/Account on Publicly Available Social Media Platform:

____

SECTION 1.L. Location of Books and Records

Complete the following information for each location at which you keep your books and records, other than your *principal office and place of business*. You must complete a separate Schedule D, Section 1.L. for each location.

Check only one box: ☐ Add ☐ Delete ☐ Amend

Name of entity where books and records are kept:__________________________________

____
(number and street)

____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

______________________ ______________________
(area code) (telephone number) (area code) (facsimile number, if any)

This is (check one):
☐ one of your branch offices or affiliates.
☐ a third-party unaffiliated recordkeeper.
☐ other.

Briefly describe the books and records kept at this location. ______________________

____

SECTION 1.M. Registration with *Foreign Financial Regulatory Authorities*

List the name and country, in English, of each *foreign financial regulatory authority* with which you are registered. You must complete a separate Schedule D Section 1.M. for each *foreign financial regulatory authority* with whom you are registered.

Check only one box: ☐ Add ☐ Delete

Name of *Foreign Financial Regulatory Authority* ______________________
Name of Country ______________________

SECTION 2.A.(8) Related Adviser

If you are relying on the exemption in rule 203A-2(b) from the prohibition on registration because you *control*, are *controlled* by, or are under common *control* with an investment adviser that is registered with the SEC and your *principal office and place of business* is the same as that of the registered adviser, provide the following information:

Name of Registered Investment Adviser ______________________
CRD Number of Registered Investment Adviser ______________________
SEC Number of Registered Investment Adviser 801-______________________

SECTION 2.A.(9) Investment Adviser Expecting to be Eligible for Commission Registration within 120 Days

If you are relying on rule 203A-2(c), the exemption from the prohibition on registration available to an adviser that expects to be eligible for SEC registration within 120 days, you are required to make certain representations about your eligibility for SEC registration. By checking the appropriate boxes, you will be deemed to have made the required representations. You must make both of these representations:

☐ I am not registered or required to be registered with the SEC or a *state securities authority* and I have a reasonable expectation that I will be eligible to register with the SEC within 120 days after the date my registration with the SEC becomes effective.

☐ I undertake to withdraw from SEC registration if, on the 120th day after my registration with the SEC becomes effective, I would be prohibited by Section 203A(a) of the Advisers Act from registering with the SEC.

SECTION 2.A.(10) Multi-State Adviser

If you are relying on rule 203A-2(d), the multi-state adviser exemption from the prohibition on registration, you are required to make certain representations about your eligibility for SEC registration. By checking the appropriate boxes, you will be deemed to have made the required representations.

If you are applying for registration as an investment adviser with the SEC, you must make both of these representations:

☐ I have reviewed the applicable state and federal laws and have concluded that I am required by the laws of 15 or more states to register as an investment adviser with the *state securities authorities* in those states.

☐ I undertake to withdraw from SEC registration if I file an amendment to this registration indicating that I would be required by the laws of fewer than 15 states to register as an investment adviser with the *state securities authorities* of those states.

If you are submitting your *annual updating amendment*, you must make this representation:

☐ Within 90 days prior to the date of filing this amendment, I have reviewed the applicable state and federal laws and have concluded that I am required by the laws of at least 15 states to register as an investment adviser with the *state securities authorities* in those states.

SECTION 2.A.(12) SEC Exemptive *Order*

If you are relying upon an SEC *order* exempting you from the prohibition on registration, provide the following information:

Application Number: 803-___________ Date of *order*: _____________
(mm/dd/yyyy)

SECTION 2.B. *Private Fund* Assets

If you check Item 2.B.(2) or (3), what is the amount of the *private fund* assets that you manage? ________________.

NOTE: "*Private fund* assets" has the same meaning here as it has under rule 203(m)-1. If you are an investment adviser with its *principal office and place of business* outside the United States only include *private fund* assets that you manage at a place of business in the United States.

SECTION 4 Successions

Complete the following information if you are succeeding to the business of a currently registered investment adviser, including a change of your structure or legal status (*e.g.*, form of organization or state of incorporation). If you acquired more than one firm in the succession you are reporting on this Form ADV, you must complete a separate Schedule D Section 4 for each acquired firm. See Part 1A Instruction 4.

Name of Acquired Firm ____

Acquired Firm's SEC File No. (if any) 801-___________Acquired Firm's *CRD* Number ______

SECTION 5.G.(3) Advisers to Registered Investment Companies and Business Development Companies

If you check Item 5.G.(3), what is the SEC file number (811 or 814 number) of each of the registered investment companies and business development companies to which you act as an adviser pursuant to an advisory contract? You must complete a separate Schedule D Section 5.G.(3) for each registered investment company and business development company to which you act as an adviser.

Check only one box: ☐ Add ☐ Delete

SEC File Number 811- or 814-_____________

Provide the regulatory assets under management of all *parallel managed accounts* related to a registered investment company (or series thereof) or business development company that you advise. $_______________________

SECTION 5.I.(2) *Wrap Fee Programs*

If you are a portfolio manager for one or more *wrap fee programs*, list the name of each program and its *sponsor*. You must complete a separate Schedule D Section 5.I.(2) for each *wrap fee program* for which you are a portfolio manager.

Check only one box: ☐ Add ☐ Delete ☐ Amend

Name of *Wrap Fee Program* ____

Name of *Sponsor* ____

Sponsor's SEC File Number (if any) (*e.g.*, 801-, 8-, 866-, 802-) _______________

Sponsor's CRD Number (if any): ________________

SECTION 5.K.(1) Separately Managed Accounts

After subtracting the amounts reported in Item 5.D.(3)(d)-(f) from your total regulatory assets under management, indicate the approximate percentage of this remaining amount attributable to each of the following categories of assets. If the remaining amount is at least $10 billion in regulatory assets under management, complete Question (a). If the remaining amount is less than $10 billion in regulatory assets under management, complete Question (b).

Any regulatory assets under management reported in Item 5.D.(3)(d), (e), and (f) should not be reported below.

If you are a subadviser to a separately managed account, you should only provide information with respect to the portion of the account that you subadvise.

End of year refers to the date used to calculate your regulatory assets under management for purposes of your *annual updating amendment*. Mid-year is the date six months before the end of year date. Each column should add up to 100% and numbers should be rounded to the nearest percent.

Investments in derivatives, registered investment companies, business development companies, and pooled investment vehicles should be reported in those categories. Do not report those investments based on related or underlying portfolio assets. Cash equivalents include bank deposits, certificates of deposit, bankers' acceptances and similar bank instruments.

Some assets could be classified into more than one category or require discretion about which category applies. You may use your own internal methodologies and the conventions of your service providers in determining how to categorize assets, so long as the methodologies or conventions are consistently applied and consistent with information you report internally and to current and prospective clients. However, you should not double count assets, and your responses must be consistent with any instructions or other guidance relating to this Section.

(a)

Asset Type	Mid-year	End of year
(i) Exchange-Traded Equity Securities	_____%	
(ii) Non Exchange-Traded Equity Securities		
(iii) U.S. Government/Agency Bonds		
(iv) U.S. State and Local Bonds		
(v) *Sovereign Bonds*		
(vi) Investment Grade Corporate Bonds		
(vii) Non-Investment Grade Corporate Bonds		
(viii) Derivatives		
(ix) Securities Issued by Registered Investment Companies or Business Development Companies		
(x) Securities Issued by Pooled Investment Vehicles (other than Registered Investment Companies or Business Development Companies)		
(xi) Cash and Cash Equivalents		
(xii) Other		

Generally describe any assets included in “Other”____________________________________

(b)

Asset Type	End of year
(i) Exchange-Traded Equity Securities	_____%
(ii) Non Exchange-Traded Equity Securities	
(iii) U.S. Government/Agency Bonds	
(iv) U.S. State and Local Bonds	
(v) *Sovereign Bonds*	
(vi) Investment Grade Corporate Bonds	
(vii) Non-Investment Grade Corporate Bonds	
(viii) Derivatives	
(ix) Securities Issued by Registered Investment Companies or Business Development Companies	
(x) Securities Issued by Pooled Investment Vehicles (other than Registered Investment Companies or Business Development Companies)	
(xi) Cash and Cash Equivalents	
(xii) Other	

Generally describe any assets included in "Other"________________________________

SECTION 5.K.(2) Separately Managed Accounts - Use of *Borrowings* and Derivatives

If your regulatory assets under management attributable to separately managed accounts are at least $10 billion, you should complete Question (a). If your regulatory assets under management attributable to separately managed accounts are at least $500 million but less than $10 billion, you should complete Question (b).

(a)

In the table below, provide the following information regarding the separately managed accounts you advise. If you are a subadviser to a separately managed account, you should only provide information with respect to the portion of the account that you subadvise. End of year refers to the date used to calculate your regulatory assets under management for purposes of your *annual updating amendment*. Mid-year is the date six months before the end of year date.

In column 1, indicate the regulatory assets under management attributable to separately managed accounts associated with each level of gross notional exposure. For purposes of this table, the gross notional exposure of an account is the percentage obtained by dividing (i) the sum of (a) the dollar amount of any *borrowings* and (b) the *gross notional value* of all derivatives, by (ii) the regulatory assets under management of the account.

In column 2, provide the dollar amount of *borrowings* for the accounts included in column 1.

In column 3, provide aggregate *gross notional value* of derivatives divided by the aggregate regulatory assets under management of the accounts included in column 1 with respect to each category of derivatives specified in 3(a) through (f).

You may, but are not required to, complete the table with respect to any separately managed account with regulatory assets under management of less than $10,000,000.

Any regulatory assets under management reported in Item 5.D.(3)(d), (e), and (f) should not be reported below.

(i) Mid-Year

Gross Notional Exposure	**1 Regulatory Assets Under Management**	**2 *Borrowings***	**3 Derivative Exposures**					
			(a) *Interest Rate Derivative*	(b) *Foreign Exchange Derivative*	(c) *Credit Derivative*	(d) *Equity Derivative*	(e) *Commodity Derivative*	(f) *Other Derivative*
Less than 10%								
10-149%								
150% or more								

Optional: Use the space below to provide a narrative description of the strategies and/or manner in which *borrowings* and derivatives are used in the management of the separately managed accounts that you advise.

(ii) End of Year

Gross Notional Exposure	**1 Regulatory Assets Under Management**	**2 *Borrowings***	**3 Derivative Exposures**					
			(a) *Interest Rate Derivative*	(b) *Foreign Exchange Derivative*	(c) *Credit Derivative*	(d) *Equity Derivative*	(e) *Commodity Derivative*	(f) *Other Derivative*
Less than 10%								
10-149%								
150% or more								

Optional: Use the space below to provide a narrative description of the strategies and/or manner in which *borrowings* and derivatives are used in the management of the separately managed accounts that you advise.

(b)

In the table below, provide the following information regarding the separately managed accounts you advise as of the date used to calculate your regulatory assets under management for purposes of your *annual updating amendment*. If you are a subadviser to a separately managed account, you should only provide information with respect to the portion of the account that you subadvise.

In column 1, indicate the regulatory assets under management attributable to separately managed accounts associated with each level of gross notional exposure. For purposes of this table, the gross notional exposure of an account is the percentage obtained by dividing (i) the sum of (a) the dollar amount of any *borrowings* and (b) the *gross notional value* of all derivatives, by (ii) the regulatory assets under management of the account.

In column 2, provide the dollar amount of *borrowings* for the accounts included in column 1.

You may, but are not required to, complete the table with respect to any separately managed accounts with regulatory assets under management of less than $10,000,000.

Any regulatory assets under management reported in Item 5.D.(3)(d), (e), and (f) should not be reported below.

Gross Notional Exposure	**1 Regulatory Assets Under Management**	**2 *Borrowings***
Less than 10%		
10-149%		
150% or more		

Optional: Use the space below to provide a narrative description of the strategies and/or manner in which *borrowings* and derivatives are used in the management of the separately managed accounts that you advise.

____

____

____

SECTION 5.K.(3) Custodians for Separately Managed Accounts

Complete a separate Schedule D Section 5.K.(3) for each custodian that holds ten percent or more of your aggregate separately managed account regulatory assets under management.

(a) Legal name of custodian: ___________________________________

(b) Primary business name of custodian: _______________________________

(c) The location(s) of the custodian's office(s) responsible for *custody* of the assets (city, state and country): ______________________

(d) Is the custodian a *related person* of your firm? ☐ Yes ☐ No

(e) If the custodian is a broker-dealer, provide its SEC registration number (if any) 8-______

(f) If the custodian is not a broker-dealer, or is a broker-dealer but does not have an SEC registration number, provide its *legal entity identifier* (if any) ________________

(g) What amount of your regulatory assets under management attributable to separately managed accounts is held at the custodian? ______________________

SECTION 6.A. Names of Your Other Businesses

If you are actively engaged in other business using a different name, provide that name and the other line(s) of business.

☐ Add ☐ Delete ☐ Amend

Other Business Name: ______________________________

Other line(s) of business in which you engage using this name: (check all that apply)

☐ (1) broker-dealer (registered or unregistered)
☐ (2) registered representative of a broker-dealer
☐ (3) commodity pool operator or commodity trading advisor (whether registered or exempt from registration)
☐ (4) futures commission merchant
☐ (5) real estate broker, dealer, or agent
☐ (6) insurance broker or agent
☐ (7) bank (including a separately identifiable department or division of a bank)
☐ (8) trust company
☐ (9) registered municipal advisor
☐ (10) registered security-based swap dealer
☐ (11) major security-based swap participant
☐ (12) accountant or accounting firm
☐ (13) lawyer or law firm
☐ (14) other financial product salesperson (specify):______________________

SECTION 6.B.(2) Description of Primary Business

Describe your primary business (not your investment advisory business):

____
____
____

If you engage in that business under a different name, provide that name:

____
____
____

SECTION 6.B.(3) Description of Other Products and Services

Describe other products or services you sell to your *client*. You may omit products and services that you listed in Section 6.B.(2) above.

____
____
____

If you engage in that business under a different name, provide that name:
____
____
____

SECTION 7.A. Financial Industry Affiliations

Complete a separate Schedule D Section 7.A. for each *related person* listed in Item 7.A.

Check only one box: ☐ Add ☐ Delete ☐ Amend

1. Legal Name of *Related Person*: ________________________________

2. Primary Business Name of *Related Person*: ____________________________

3. *Related Person's* SEC File Number (if any) (*e.g.*, 801-, 8-, 866-, 802-) ________________

4. *Related Person's* (a) *CRD* Number (if any): _____________
(b) CIK Number(s) (if any):_____________

5. *Related Person* is: (check all that apply)

☐ (a) broker-dealer, municipal securities dealer, or government securities broker or dealer
☐ (b) other investment adviser (including financial planners)
☐ (c) registered municipal advisor
☐ (d) registered security-based swap dealer
☐ (e) major security-based swap participant
☐ (f) commodity pool operator or commodity trading advisor (whether registered or exempt from registration)
☐ (g) futures commission merchant
☐ (h) banking or thrift institution
☐ (i) trust company
☐ (j) accountant or accounting firm
☐ (k) lawyer or law firm
☐ (l) insurance company or agency
☐ (m) pension consultant
☐ (n) real estate broker or dealer
☐ (o) sponsor or syndicator of limited partnerships (or equivalent), excluding pooled investment vehicles
☐ (p) sponsor, general partner, managing member (or equivalent) of pooled investment vehicles

6. Do you *control* or are you *controlled* by the *related person*? ☐ Yes ☐ No

7. Are you and the *related person* under common *control*? ☐ Yes ☐ No

in connection with advisory services you provide to *clients*? ☐ Yes ☐ No

(b) If you are registering or registered with the SEC and you have answered "yes" to question 8.(a) above, have you overcome the presumption that you are not operationally independent (pursuant to rule 206(4)-2(d)(5)) from the *related person* and thus are not required to obtain a surprise examination for your *clients'* funds or securities that are maintained at the *related person*? ☐ Yes ☐ No

(c) If you have answered "yes" to question 8.(a) above, provide the location of the *related person's* office responsible for *custody* of your *clients'* assets:

____

(number and street)

____

(city) (state/country) (zip+4/postal code)

9. (a) If the *related person* is an investment adviser, is it exempt from registration? ☐ Yes ☐ No

(b) If the answer is yes, under what exemption? ______________

10. (a) Is the *related person* registered with a *foreign financial regulatory authority*? ☐ Yes ☐ No

(b) If the answer is yes, list the name and country, in English of each *foreign financial regulatory authority* with which the *related person* is registered. ____________________

11. Do you and the *related person* share any *supervised persons*? ☐ Yes ☐ No

12. Do you and the *related person* share the same physical location? ☐ Yes ☐ No

---

SECTION 7.B.(1) *Private Fund* Reporting

Check only one box: ☐ Add ☐ Delete ☐ Amend

A. PRIVATE FUND

Information About the *Private Fund*

1. (a) Name of the *private fund*: ____________________

(b) *Private fund* identification number: ____________________

2. Under the laws of what state or country is the *private fund* organized:

3. Name(s) of General Partner, Manager, Trustee, or Directors (or *persons* serving in a similar capacity):

   (a) Check only one box: ☐ Add ☐ Delete ☐ Amend

   ____

   (b) If filing an *umbrella registration*, identify the *filing adviser* and/or *relying adviser(s)* that sponsor(s) or manage(s) this *private fund.*

   ____

4. The *private fund* (check all that apply; you must check at least one):

   ☐ (1) qualifies for the exclusion from the definition of investment company under section 3(c)(1) of the Investment Company Act of 1940

   ☐ (2) qualifies for the exclusion from the definition of investment company under section 3(c)(7) of the Investment Company Act of 1940

5. List the name and country, in English, of each *foreign financial regulatory authority* with which the *private fund* is registered.

   Check only one box: ☐ Add ☐ Delete ☐ Amend

   English Name of *Foreign Financial Regulatory Authority* ______________________

   Name of Country ______________________

6. (a) Is this a "master fund" in a master-feeder arrangement? ☐ Yes ☐ No

   (b) If yes, what is the name and *private fund* identification number (if any) of the feeder funds investing in this *private fund*?

   Check only one box: ☐ Add ☐ Delete ☐ Amend

   Name of *private fund*:________________________________

   Private fund identification number:________________________

   (c) Is this a "feeder fund" in a master-feeder arrangement? ☐ Yes ☐ No

   (d) If yes, what is the name and *private fund* identification number (if any) of the master fund in which this *private fund* invests?

   Check only one box: ☐ Add ☐ Delete ☐ Amend

Name of *private fund*:________________________________

Private fund identification number:________________________

NOTE: You must complete question 6 for each master-feeder arrangement regardless of whether you are filing a single Schedule D, Section 7.B.(1) for the master-feeder arrangement or reporting on the funds separately.

7. If you are filing a single Schedule D, Section 7.B.(1) for a master-feeder arrangement according to the instructions to this Section 7.B.(1), for each of the feeder funds answer the following questions:

Check only one box: ☐ Add ☐ Delete ☐ Amend

(a) Name of the *private fund*:_____________________

(b) *Private fund* identification number:____________________

(c) Under the laws of what state or country is the private fund organized:____________

(d) Name(s) of the General Partner, Manager, Trustee or Directors (or *persons* serving in a similar capacity):

(1) Check only one box: ☐ Add ☐ Delete ☐ Amend

____

(2) If filing an *umbrella registration*, identify the *filing adviser* and/or *relying adviser(s)* that sponsor(s) or manage(s) this *private fund*:

____

(e) The *private fund* (check all that apply; you must check at least one):

☐ (1) qualifies for the exclusion from the definition of investment company under section 3(c)(1) of the Investment Company Act of 1940

☐ (2) qualifies for the exclusion from the definition of investment company under section 3(c)(7) of the Investment Company Act of 1940

(f) List the name and country, in English, of each *foreign financial regulatory authority* with which the *private fund* is registered.

Check only one box: ☐ Add ☐ Delete ☐ Amend

English Name of *Foreign Financial Regulatory Authority* ______________________

Name of Country ______________________

NOTE: For purposes of questions 6 and 7, in a master-feeder arrangement, one or more funds ("feeder funds") invest all or substantially all of their assets in a single fund ("master fund"). A fund would also be a "feeder fund" investing in a "master fund" for purposes of this question if it issued multiple classes (or series) of shares or interests, and each class (or series) invests substantially all of its assets in a single master fund.

8. (a) Is this *private fund* a "fund of funds"? ☐ Yes ☐ No

NOTE: For purposes of this question only, answer "yes" if the fund invests 10 percent or more of its total assets in other pooled investment vehicles, regardless of whether they are also *private funds* or registered investment companies.

(b) If yes, does the *private fund* invest in funds managed by you or by a *related person*? ☐ Yes ☐ No

9. During your last fiscal year, did the *private fund* invest in securities issued by investment companies registered under the Investment Company Act of 1940 (other than "money market funds," to the extent provided in Instruction 6.e.)? ☐ Yes ☐ No

10. What type of fund is the *private fund*?

☐ hedge fund ☐ liquidity fund ☐ private equity fund ☐ real estate fund

☐ securitized asset fund ☐ venture capital fund ☐ Other *private fund*:________

NOTE: For definitions of these fund types, please see Instruction 6 of the Instructions to Part 1A.

11. Current gross asset value of the *private fund*: $_____________

Ownership

12. Minimum investment commitment required of an investor in the *private fund*: $_______

NOTE: Report the amount routinely required of investors who are not your *related persons* (even if different from the amount set forth in the organizational documents of the fund).

13. Approximate number of the *private fund's* beneficial owners:_________

14. What is the approximate percentage of the *private fund* beneficially owned by you and your *related persons*: ________%

15. (a) What is the approximate percentage of the *private fund* beneficially owned (in the aggregate) by funds of funds: __________ %

(b) If the private fund qualifies for the exclusion from the definition of investment company under section 3(c)(1) of the Investment Company Act of 1940, are sales of the fund limited to *qualified clients*? ☐ Yes ☐ No

16. What is the approximate percentage of the *private fund* beneficially owned by non-*United States persons*: __________ %

Your Advisory Services

17. (a) Are you a subadviser to this *private fund*? ☐ Yes ☐ No

(b) If the answer to question 17.(a) is "yes," provide the name and SEC file number, if any, of the adviser of the *private fund*. If the answer to question 17.(a) is "no," leave this question blank. ______________

18. (a) Do any investment advisers (other than the investment advisers listed in Section 7.B.(1).A.3.(b)) advise the *private fund*? ☐ Yes ☐ No

(b) If the answer to question 18.(a) is "yes," provide the name and SEC file number, if any, of the other advisers to the *private fund*. If the answer to question 18.(a) is "no," leave this question blank.

Check only one box: ☐ Add ☐ Delete ☐ Amend

Name of Adviser: _________________

Adviser's SEC File Number:_________________

19. Are your *clients* solicited to invest in the *private fund*? ☐ Yes ☐ No
NOTE: For purposes of this question, do not consider feeder funds of the private fund.

20. Approximately what percentage of your *clients* has invested in the *private fund*? _____%

Private Offering

21. Has the *private fund* ever relied on an exemption from registration of its securities under Regulation D of the Securities Act of 1933? ☐ Yes ☐ No

22. If yes, provide the *private fund's* Form D file number (if any):

Check only one box: ☐ Add ☐ Delete ☐ Amend

021-_______________

B. SERVICE PROVIDERS

☐ Check this box if you are filing this Form ADV through the IARD system and want the IARD system to create a new Schedule D, Section 7.B.(1) with the same service provider information you have given here in Questions 23 - 28 for a new *private fund* for which you are required to complete Section 7.B.(1). If you check the box, the system will pre-fill those fields for you, but you will be able to manually edit the information after it is pre-filled and before you submit your filing.

Auditors

23. (a) (1) Are the *private fund's* financial statements subject to an annual audit? ☐ Yes ☐ No

(2) If the answer to question 23.(a)(1) is "yes," are the financial statements prepared in accordance with U.S. GAAP? ☐ Yes ☐ No

If the answer to question 23.(a)(1) is "yes," respond to questions (b) through (h) below. If the *private fund* uses more than one auditing firm, you must complete questions (b) through (f) separately for each auditing firm.

Check only one box: ☐ Add ☐ Delete ☐ Amend

(b) Name of the auditing firm: ____________________________________

(c) The location of the auditing firm's office responsible for the *private fund's* audit (city, state and country): ________________________________

(d) Is the auditing firm an *independent public accountant*? ☐ Yes ☐ No

(e) Is the auditing firm registered with the Public Company Accounting Oversight Board? ☐ Yes ☐ No

If yes, Public Company Accounting Oversight Board-Assigned Number: ________

(f) If "yes" to (e) above, is the auditing firm subject to regular inspection by the Public Company Accounting Oversight Board in accordance with its rules? ☐ Yes ☐ No

(g) Are the *private fund's* audited financial statements for the most recently completed fiscal year distributed to the *private fund's* investors? ☐ Yes ☐ No

(h) Do all of the reports prepared by the auditing firm for the *private fund* since your last *annual updating amendment* contain unqualified opinions? ☐ Yes ☐ No ☐Report Not Yet Received

If you check "Report Not Yet Received," you must promptly file an amendment to your Form ADV to update your response when the report is available.

Prime Broker

24. (a) Does the *private fund* use one or more prime brokers? ☐ Yes ☐ No

If the answer to question 24.(a) is "yes," respond to questions (b) through (e) below for each prime broker the *private fund* uses. If the *private fund* uses more than one prime broker, you must complete questions (b) through (e) separately for each prime broker.

Check only one box: ☐ Add ☐ Delete ☐ Amend

(b) Name of the prime broker:__________________

(c) If the prime broker is registered with the SEC, its registration number: 8-_________

(d) Location of prime broker's office used principally by the *private fund* (city, state and country): _______________________

(e) Does this prime broker act as custodian for some or all of the *private fund's* assets? ☐ Yes ☐ No

Custodian

25. (a) Does the *private fund* use any custodians (including the prime brokers listed above) to hold some or all of its assets? ☐ Yes ☐ No

If the answer to question 25.(a) is "yes," respond to questions (b) through (g) below for each custodian the *private fund* uses. If the *private fund* uses more than one custodian, you must complete questions (b) through (g) separately for each custodian.

Check only one box: ☐ Add ☐ Delete ☐ Amend

(b) Legal name of custodian:__________________

(c) Primary business name of custodian: ______________________

(d) The location of the custodian's office responsible for *custody* of the *private fund's* assets (city, state and country): _______________________

(e) Is the custodian a *related person* of your firm? ☐ Yes ☐ No

(f) If the custodian is a broker-dealer, provide its SEC registration number (if any):
8-________

(g) If the custodian is not a broker-dealer, or is a broker-dealer but does not have an SEC registration number, provide its *legal entity identifier* (if any) __________________

Administrator

26. (a) Does the *private fund* use an administrator other than your firm? ☐ Yes ☐ No

If the answer to question 26.(a) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one administrator, you must complete questions (b) through (f) separately for each administrator.

Check only one box: ☐ Add ☐ Delete ☐ Amend

(b) Name of administrator: ____________________________

(c) Location of administrator (city, state and country): ____________________

(d) Is the administrator a *related person* of your firm? ☐ Yes ☐ No

(e) Does the administrator prepare and send investor account statements to the *private fund's* investors?

☐ Yes (provided to all investors) ☐ Some (provided to some but not all investors) ☐ No (provided to no investors)

(f) If the answer to question 26.(e) is "no" or "some," who sends the investor account statements to the (rest of the) *private fund's* investors? If investor account statements are not sent to the (rest of the) *private fund's* investors, respond "not applicable."
____.

27. During your last fiscal year, what percentage of the *private fund's* assets (by value) was valued by a *person*, such as an administrator, that is not your *related person*?

_____________%

Include only those assets where (i) such *person* carried out the valuation procedure established for that asset, if any, including obtaining any relevant quotes, and (ii) the valuation used for purposes of investor subscriptions, redemptions or distributions, and fee calculations (including allocations) was the valuation determined by such *person*.

Marketers

28. (a) Does the *private fund* use the services of someone other than you

or your *employees* for marketing purposes? ☐ Yes ☐ No

You must answer "yes" whether the *person* acts as a placement agent, consultant, finder, introducer, municipal advisor or other solicitor, or similar *person*. If the answer to question 28.(a) is "yes," respond to questions (b) through (g) below for each such marketer the *private fund* uses. If the *private fund* uses more than one marketer, you must complete questions (b) through (g) separately for each marketer.

Check only one box: ☐ Add ☐ Delete ☐ Amend

(b) Is the marketer a *related person* of your firm? ☐ Yes ☐ No

(c) Name of the marketer: ________________________________

(d) If the marketer is registered with the SEC, its file number (*e.g.*, 801-, 8-, or 866-): __________ and *CRD* Number (if any) ________________

(e) Location of the marketer's office used principally by the *private fund* (city, state and country): __________________________

(f) Does the marketer market the *private fund* through one or more websites? ☐ Yes ☐ No

(g) If the answer to question 28.(f) is "yes," list the website address(es): __________

SECTION 7.B.(2) *Private Fund* Reporting

(1) Name of the *private fund*: _____________________

(2) *Private fund* identification number: __________________

(3) Name and SEC File number of adviser that provides information about this *private fund* in Section 7.B.(1) of Schedule D of its Form ADV filing: _________________, 801-_________ or 802-__________

(4) Are your *clients* solicited to invest in this *private fund*? ☐ Yes ☐ No

In answering this question, disregard feeder funds' investment in a master fund. For purposes of this question, in a master-feeder arrangement, one or more funds ("feeder funds") invest all or substantially all of their assets in a single fund ("master fund"). A fund would also be a "feeder fund" investing in a "master fund" for purposes of this question if it issued multiple classes (or series) of shares or interests, and each class (or series) invests substantially all of its assets in a single master fund.

SECTION 9.C. *Independent Public Accountant*

You must complete the following information for each *independent public accountant* engaged to perform a surprise examination, perform an audit of a pooled investment vehicle that you manage, or prepare an internal control report. You must complete a separate Schedule D Section 9.C. for each *independent public accountant*.

Check only one box: ☐ Add ☐ Delete ☐ Amend

(1) Name of the *independent public accountant*: ____________________________

(2) The location of the *independent public accountant's* office responsible for the services provided:

____
(number and street)

____
(city) (state/country) (zip+4/postal code)

(3) Is the *independent public accountant* registered with the Public Company Accounting Oversight Board? ☐ Yes ☐ No

If "yes," Public Company Accounting Oversight Board-Assigned Number:____________

(4) If "yes" to (3) above, is the *independent public accountant* subject to regular inspection by the Public Company Accounting Oversight Board in accordance with its rules? ☐ Yes ☐ No

(5) The *independent public accountant* is engaged to:

A. ☐ audit a pooled investment vehicle
B. ☐ perform a surprise examination of *clients'* assets
C. ☐ prepare an internal control report

(6) Since your last *annual* *updating amendment*, did all of the reports prepared by the *independent public accountant* that audited the pooled investment vehicle or that examined internal controls contain unqualified opinions?

☐ Yes ☐ No ☐Report Not Yet Received

If you check "Report Not Yet Received," you must promptly file an amendment to your Form ADV to update your response when the accountant's report is available.

SECTION 10.A. *Control Persons*

You must complete a separate Schedule D Section 10.A. for each *control person* not named in Item 1.A. or Schedules A, B, or C that directly or indirectly *controls* your management or policies.

Check only one box: ☐ Add ☐ Delete ☐ Amend

(1) Firm or Organization Name: ______________________________

(2) *CRD* Number (if any): ______________ Effective Date: ____________
mm/dd/yyyy

Termination Date: ____________
mm/dd/yyyy

(3) Business Address:

____
(number and street)

____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

(4) Individual Name (if applicable) (Last, First, Middle):

____

(5) *CRD* Number (if any): ______________ Effective Date: ____________
mm/dd/yyyy

Termination Date: ____________
mm/dd/yyyy

(6) Business Address:

____
(number and street)

____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

(7) Briefly describe the nature of the *control*:

____
____
____

SECTION 10.B. *Control Person* Public Reporting Companies

If any *person* named in Schedules A, B, or C, or in Section 10.A. of Schedule D is a public reporting company under Sections 12 or 15(d) of the Securities Exchange Act of 1934, please provide the following information (you must complete a separate Schedule D Section 10.B. for each public reporting company):

(1) Full legal name of the public reporting company: ________________________________

(2) The public reporting company's CIK number (Central Index Key number that the SEC assigns to each reporting company): ____

Miscellaneous

You may use the space below to explain a response to an Item or to provide any other information.

____
____
____
____
____
____
____
____

FORM ADV
Schedule R

Check the box that indicates what you would like to do:

Submit a new Schedule R

☐ Submit an initial Schedule R

Amend a Schedule R

☐ Amend an existing Schedule R

Delete a Schedule R

☐ Delete an existing Schedule R for a *relying adviser* that is no longer eligible for SEC registration

☐ Delete an existing Schedule R for a *relying adviser* that is no longer relying on this *umbrella registration*

SECTION 1 Identifying Information

Responses to this Section tell us who you (the *relying adviser*) are, where you are doing business, and how we can contact you.

A. Your full legal name:

____

B. Name under which you primarily conduct your advisory business, if different from Section 1.A. above or Item 1.A. of the *filing adviser's* Form ADV Part 1A.

____

C. List any other business names and the jurisdictions in which you use them. Complete this question for each other business name. ☐ Add ☐ Delete ☐ Amend

Name: ________________________ Jurisdiction:________________

You do not have to include the names or jurisdictions of the filing adviser or other relying adviser(s) in response to this Section 1.C.

D. If you currently have, or ever had, a number ("*CRD* Number") assigned by the *FINRA's CRD* system or by the IARD system (other than the *filing adviser's CRD* number), your *CRD* number: __________.

If you do not have a CRD number, skip this Section 1.D. Do not provide the CRD number of one of your officers, employees, or affiliates (including the filing adviser).

E. *Principal Office and Place of Business*

☐ Same as the *filing adviser*.

(1) Address (do not use a P.O. Box):

____
(number and street)

____
(city) (state/country) (zip +4/postal code)

If this address is a private residence, check this box: ☐

(2) Days of week that you normally conduct business at your *principal office and place of business*:

☐ Monday - Friday ☐ Other: __________________________

Normal business hours at this location: __________________________

(3) Telephone number at this location: ____________________________
(area code) (telephone number)

(4) Facsimile number at this location, if any: ____________________________
(area code) (facsimile number)

F. Mailing address, if different from your *principal office and place of business* address:

☐ Same as the *filing adviser*.

____
(number and street)

____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

G. Provide your *Legal Entity Identifier* if you have one: ________________________

A *legal entity identifier* is a unique number that companies use to identify each other in the financial marketplace. You may not have a *legal entity identifier*.

H. If you have Central Index Key numbers assigned by the SEC ("CIK Numbers"), all of your CIK numbers: ________________________

SECTION 2

SEC Registration

Responses to this Section help us (and you) determine whether you are eligible to register with the SEC.

A. To be a *relying adviser*, you must be independently eligible to register (or remain registered) with the SEC. You must check **at least one** of the Sections 2.A.(1) through 2.A.(8), below. Part 1A Instruction 2 provides information to help you determine whether you may affirmatively respond to each of these items.

You (the *relying adviser*):

☐ (1) are a **large advisory firm** that either:

(a) has regulatory assets under management of $100 million (in U.S. dollars) or more; or

(b) has regulatory assets under management of $90 million (in U.S. dollars) or more at the time of filing its most recent *annual updating amendment* and is registered with the SEC;

☐ (2) are a **mid-sized advisory firm** that has regulatory assets under management of $25 million (in U.S. dollars) or more but less than $100 million (in U.S. dollars) and you are either:

(a) not required to be registered as an adviser with the *state securities authority* of the state where you maintain your *principal office and place of business*; or

(b) not subject to examination by the *state securities authority* of the state where you maintain your *principal office and place of business*;

☐ (3) have your *principal office and place of business* **in Wyoming** (which does not regulate advisers);

☐ (4) have your *principal office and place of business* **outside the United States**;

☐ (5) are a **related adviser** under rule 203A-2(b) that *controls*, is *controlled* by, or is under common *control* with, an investment adviser that is registered with the SEC, and your *principal office and place of business* is the same as the registered adviser;

☐ (6) are an **adviser** relying on rule 203A-2(c) because you **expect to be eligible for SEC registration within 120 days**;

If you check this box, you must make both of the representations below:

☐ I am not registered or required to be registered with the SEC or a state securities authority and I have a reasonable expectation that I will be eligible to register with the SEC within 120 days after the date my registration with the SEC becomes effective.

☐ By submitting this Form ADV to the SEC, the *filing adviser* undertakes to file an amendment to this *umbrella registration* to remove this Schedule R if, on the 120th day after this application for *umbrella registration* with the SEC becomes effective, I would be prohibited by Section 203A(a) of the Advisers Act from registering with the SEC.

☐ (7) are a **multi-state adviser** that is required to register in 15 or more states and is relying on rule 203A-2(d);

If this is your initial filing as a relying adviser, you must make both of these representations:

☐ I have reviewed the applicable state and federal laws and have concluded that I am required by the laws of 15 or more states to register as an investment adviser with the *state securities authorities* in those states.

☐ The *filing adviser* undertakes to file an amendment to this *umbrella registration* to remove this Schedule R if, at the time of the *annual updating amendment*, I would be required by the laws of fewer than 15 states to register as an investment adviser with the *state securities authorities* of those states.

If you are submitting your *annual updating amendment*, you must make this representation:

☐ Within 90 days prior to the date of filing this amendment, I have reviewed the applicable state and federal laws and have concluded that I am required by the laws of at least 15 states to register as an investment adviser with the *state securities authorities* in those states.

☐ (8) have **received an SEC *order*** exempting you from the prohibition against registration with the SEC. If you check this box, provide the following information:

Application Number: 803-______________ Date of *order*: _____________
(mm/dd/yyyy)

☐ (9) are **no longer eligible** to remain registered with the SEC.

SECTION 3 Form of Organization

A. How are you organized?

☐ Corporation ☐ Sole Proprietorship ☐ Limited Liability Partnership (LLP)
☐ Partnership ☐ Limited Liability Company (LLC) ☐ Limited Partnership (LP)
☐ Other (specify):____

B. In what month does your fiscal year end each year? ________________________

C. Under the laws of what state or country are you organized? ___________________

If you are a partnership, provide the name of the state or country under whose laws your partnership was formed.

SECTION 4 *Control Persons*

In this Section 4, we ask you to identify each other *person* that, directly or indirectly, *controls* you.

A. Direct Owners and Executive Officers

(1) Section 4.A. asks for information about your direct owners and executive officers.

(2) Direct Owners and Executive Officers. List below the names of:

(a) each Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, director and any other individuals with similar status or functions;

(b) if you are organized as a corporation, each shareholder that is a direct owner of 5% or more of a class of your voting securities, unless you are a public reporting company (a company subject to Section 12 or 15(d) of the Exchange Act);

Direct owners include any *person* that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 5% or more of a class of your voting securities. For purposes of this Section 4.A., a *person* beneficially owns any securities: (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the security.

(c) if you are organized as a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 5% or more of your capital;

(d) in the case of a trust that directly owns 5% or more of a class of your voting securities, or that has the right to receive upon dissolution, or has contributed, 5% or more of your capital, the trust and each trustee; and

(e) if you are organized as a limited liability company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 5% or more of your capital, and (ii) if managed by elected managers, all elected managers.

(3) Do you have any indirect owners to be reported in Section 4.B. below? ☐ Yes ☐ No

(4) In the DE/FE/I column below, enter "DE" if the owner is a domestic entity, "FE" if the owner is an entity incorporated or domiciled in a foreign country, or "I" if the owner or executive officer is an individual.

(5) Complete the Title or Status column by entering board/management titles; status as partner, trustee, sole proprietor, elected manager, shareholder, or member; and for shareholders or members, the class of securities owned (if more than one is issued).

(6) Ownership codes are:

	NA - less than 5%	C - 25% but less than 50%
	A - 5% but less than 10%	D - 50% but less than 75%
	B - 10% but less than 25%	E - 75% or more

(7) (a) In the *Control Person* column, enter "Yes" if the *person* has *control* as defined in the Glossary of Terms to Form ADV, and enter "No" if the *person* does not have *control*. Note that under this definition, most executive officers and all 25% owners, general partners, elected managers, and trustees are *control persons*.

(b) In the PR column, enter "PR" if the owner is a public reporting company under Sections 12 or 15(d) of the Exchange Act.

(c) Complete each column.

Check this box if you are filing this Form ADV through the IARD system and want the IARD system to pre-fill the chart below with the same direct owners and executive officers you have provided in Schedule A for your *filing adviser*. If you check the box, the system will pre-fill these fields for you, but you will be able to manually edit the information after it is pre-filled and before you submit your filing. ☐

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Title or Status	Date Title or Status Acquired MM/YYYY	Ownership Code	*Control Person* PR	*CRD* No. If None: S.S. No. and Date of Birth, IRS Tax No. or Employer ID No.

B. Indirect Owners

(1) Section 4.B. asks for information about your indirect owners; you must first complete Section 4.A., which asks for information about your direct owners.

(2) Indirect Owners. With respect to each owner listed in Section 4.A. (except individual owners), list below:

(a) in the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25% or more of a class of a voting security of that corporation;

For purposes of this Section, a *person* beneficially owns any securities: (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the security.

(b) in the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25% or more of the partnership's capital;

(c) in the case of an owner that is a trust, the trust and each trustee; and

(d) in the case of an owner that is a limited liability company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 25% or more of the LLC's capital, and (ii) if managed by elected managers, all elected managers.

(3) Continue up the chain of ownership listing all 25% owners at each level. Once a public reporting company (a company subject to Sections 12 or 15(d) of the Exchange Act) is reached, no further ownership information need be given.

(4) In the DE/FE/I column below, enter "DE" if the owner is a domestic entity, "FE" if the owner is an entity incorporated or domiciled in a foreign country, or "I" if the owner is an individual.

(5) Complete the Status column by entering the owner's status as partner, trustee, elected manager, shareholder, or member; and for shareholders or members, the class of securities owned (if more than one is issued).

(6) Ownership codes are:
C - 25% but less than 50%
D - 50% but less than 75%
E - 75% or more
F - Other (general partner, trustee, or elected manager)

(7) (a) In the *Control Person* column, enter "Yes" if the *person* has *control* as defined in the Glossary of Terms to Form ADV, and enter "No" if the *person* does not have *control*. Note that under this definition, most executive officers and all 25% owners, general partners, elected managers, and trustees are *control persons*.
(b) In the PR column, enter "PR" if the owner is a public reporting company under Sections 12 or 15(d) of the Exchange Act.
(c) Complete each column.

Check this box if you are filing this Form ADV through the IARD system and want the IARD system to pre-fill Schedule B with the same indirect owners you have provided in Schedule B for your filing adviser. If you check the box, the system will pre-fill these fields for you, but you will be able to manually edit the information after it is pre-filled and before you submit your filing. ☐

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Entity in Which Interest is Owned	Status	Date Status Acquired MM/YYYY	Ownership Code	*Control Person* PR	*CRD* No. If None: S.S. No. and Date of Birth, IRS Tax No. or Employer ID No.

C. Does any *person* not named in Section 1.A., Section 4.A., or Section 4.B. directly or indirectly, *control* your management or policies? ☐ Yes ☐ No

If yes, you must complete the information below for each *control person* not named in Section 1.A., Section 4.A., or Section 4.B. that directly or indirectly *controls* your management or policies.

Check only one box: ☐ Add ☐ Delete ☐ Amend

(1) Firm or Organization Name: ____________________

(2) *CRD* Number (if any): ____________ Effective Date: ____________
mm/dd/yyyy

Termination Date: ____________
mm/dd/yyyy

(3) Business Address:

____
(number and street)

____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

(4) Individual Name (if applicable) (Last, First, Middle):

____

(5) *CRD* Number (if any): ____________ Effective Date: ____________
mm/dd/yyyy

Termination Date: ____________
mm/dd/yyyy

(6) Business Address:

____
(number and street)

____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

(7) Briefly describe the nature of the *control*:

____
____
____

D. If any *person* named in Section 4.A., Section 4.B., or Section 4.C. is a public reporting company under Sections 12 or 15(d) of the Securities Exchange Act of 1934, complete the information below (you must complete this information for each public reporting company).

Check only one box: ☐ Add ☐ Delete ☐ Amend

(1) Full legal name of the public reporting company:______________________________

(2) The public reporting company's CIK number (Central Index Key number that the SEC assigns to each reporting company): ______________________________

CRIMINAL DISCLOSURE REPORTING PAGE (ADV)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP ADV) is an ☐ INITIAL ***OR*** ☐ AMENDED response used to report details for affirmative responses to Items 11.A. or 11.B. of Form ADV.

Check item(s) being responded to: ☐ 11.A(1) ☐ 11.A(2) ☐ 11.B(1) ☐ 11.B(2)

Use a separate DRP for each event or *proceeding*. The same event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

Multiple counts of the same charge arising out of the same event(s) should be reported on the same DRP. Unrelated criminal actions, including separate cases arising out of the same event, must be reported on separate DRPs. Use this DRP to report all charges arising out of the same event. One event may result in more than one affirmative answer to the items listed above.

PART I

A. The *person(s)* or entity(ies) for whom this DRP is being filed is (are):
   ☐ You (the advisory firm)
   ☐ You and one or more of your *advisory affiliates*
   ☐ One or more of your *advisory affiliates*

If this DRP is being filed for an *advisory affiliate*, give the full name of the *advisory affiliate* below (for individuals, Last name, First name, Middle name).

If the *advisory affiliate* has a *CRD* number, provide that number. If not, indicate "non-registered" by checking the appropriate box.

Your Name ______________________________

Your *CRD* Number ________________________

ADV DRP - *ADVISORY AFFILIATE*

CRD Number ____________________

This *advisory affiliate* is ☐a firm ☐an individual
Registered: ☐Yes ☐No

Name (For individuals, Last, First, Middle)

____

☐ This DRP should be removed from the ADV record because the *advisory affiliate(s)* is no longer associated with the adviser.

☐ This DRP should be removed from the ADV record because: (1) the event or *proceeding* occurred more than ten years ago or (2) the adviser is registered or applying for registration with the SEC or reporting as an *exempt reporting adviser* with the SEC and the event was resolved in the adviser's or *advisory affiliate's* favor.

☐ This DRP should be removed from the ADV record because it was filed in error, such as due to a clerical or data-entry mistake. Explain the circumstances:

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B. If the *advisory affiliate* is registered through the IARD system or *CRD* system, has the *advisory affiliate* submitted a DRP (with Form ADV, BD or U-4) to the IARD or *CRD* for the event? If the answer is "Yes," no other information on this DRP must be provided.
☐ Yes ☐ No

NOTE: The completion of this form does not relieve the *advisory affiliate* of its obligation to update its IARD or *CRD* records.

PART II

1. If charge(s) were brought against an organization over which you or an *advisory affiliate* exercise(d) *control*: Enter organization name, whether or not the organization was an *investment-related* business and your or the *advisory affiliate's* position, title, or relationship.

____

2. Formal Charge(s) were brought in: (include name of Federal, Military, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case number).

____

3. Event Disclosure Detail (Use this for both organizational and individual charges.)

A. Date First *Charged* (MM/DD/YYYY): ______________ ☐ Exact ☐ Explanation

If not exact, provide explanation: ____

B. Event Disclosure Detail (include Charge(s)/Charge Description(s), and for each charge provide: (1) number of counts, (2) *felony* or *misdemeanor*, (3) plea for each charge, and (4) product type if charge is *investment-related.*

____

____

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C. Did any of the Charge(s) within the Event involve a *felony*? ☐ Yes ☐ No

D. Current status of the Event? ☐ Pending ☐ On Appeal ☐ Final

E. Event Status Date (complete unless status is Pending) (MM/DD/YYYY): ____________

☐ Exact ☐ Explanation

If not exact, provide explanation: ____

4. Disposition Disclosure Detail: Include for each charge (a) Disposition Type (e.g., convicted, acquitted, dismissed, pretrial, etc.), (b) Date, (c) Sentence/Penalty, (d) Duration (if sentence-suspension, probation, etc.), (e) Start Date of Penalty, (f) Penalty/Fine Amount, and (g) Date Paid.

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5. Provide a brief summary of circumstances leading to the charge(s) as well as the disposition. Include the relevant dates when the conduct which was the subject of the charge(s) occurred. (Your response must fit within the space provided.)

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REGULATORY ACTION DISCLOSURE REPORTING PAGE (ADV)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP ADV) is an ☐ INITIAL ***OR*** ☐ AMENDED response used to report details for affirmative responses to Items 11.C., 11.D., 11.E., 11.F. or 11.G. of Form ADV.

Check item(s) being responded to:

☐ 11.C(1) ☐ 11.C(2) ☐ 11.C(3) ☐ 11.C(4) ☐ 11.C(5)
☐ 11.D(1) ☐ 11.D(2) ☐ 11.D(3) ☐ 11.D(4) ☐ 11.D(5)
☐ 11.E(1) ☐ 11.E(2) ☐ 11.E(3) ☐ 11.E(4)
☐ 11.F. ☐ 11.G.

Use a separate DRP for each event or *proceeding*. The same event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

One event may result in more than one affirmative answer to Items 11.C., 11.D., 11.E., 11.F. or 11.G. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details for each action on a separate DRP.

PART I

A. The *person(s)* or entity(ies) for whom this DRP is being filed is (are):
☐ You (the advisory firm)
☐ You and one or more of your *advisory affiliates*
☐ One or more of your *advisory affiliates*

If this DRP is being filed for an *advisory affiliate*, give the full name of the *advisory affiliate* below (for individuals, Last name, First name, Middle name).

If the *advisory affiliate* has a *CRD* number, provide that number. If not, indicate "non-registered" by checking the appropriate box.

Your Name ______________________________

Your *CRD* Number ________________________

ADV DRP - *ADVISORY AFFILIATE*

CRD Number ____________________

This *advisory affiliate* is ☐a firm ☐an individual
Registered: ☐Yes ☐No

Name (For individuals, Last, First, Middle)

____

☐ This DRP should be removed from the ADV record because the *advisory affiliate*(s) is no longer associated with the adviser.

☐ This DRP should be removed from the ADV record because: (1) the event or *proceeding* occurred more than ten years ago or (2) the adviser is registered or applying for registration with the SEC or reporting as an *exempt reporting adviser* with the SEC and the event was resolved in the adviser's or *advisory affiliate's* favor.

If you are registered or registering with a *state securities authority*, you may remove a DRP for an event you reported only in response to Item 11.D(4), and only if that event occurred more than ten years ago. If you are registered or registering with the SEC, you may remove a DRP for any event listed in Item 11 that occurred more than ten years ago.

☐ This DRP should be removed from the ADV record because it was filed in error, such as due to a clerical or data-entry mistake. Explain the circumstances:

____

____

B. If the *advisory affiliate* is registered through the IARD system or *CRD* system, has the *advisory affiliate* submitted a DRP (with Form ADV, BD or U-4) to the IARD or *CRD* for the event? If the answer is "Yes," no other information on this DRP must be provided.
☐ Yes ☐ No

NOTE: The completion of this form does not relieve the *advisory affiliate* of its obligation to update its IARD or *CRD* records.

PART II

1. Regulatory Action initiated by:
☐ SEC ☐ Other Federal ☐ State ☐ *SRO* ☐ Foreign

(Full name of regulator, *foreign financial regulatory authority*, federal, state or *SRO*)

____

2. Principal Sanction (check appropriate item):

☐ Civil and Administrative Penalty(ies)/Fine(s)
☐ Bar
☐ Cease and Desist
☐ Censure
☐ Disgorgement
☐ Expulsion
☐ Injunction
☐ Prohibition
☐ Restitution
☐ Revocation
☐ Suspension
☐ Undertaking

☐ Denial ☐ Reprimand ☐ Other__________

Other Sanctions:

____

____

____

3. Date Initiated (MM/DD/YYYY): __________________ ☐ Exact ☐ Explanation

   If not exact, provide explanation: ______________________________

4. Docket/Case Number: __________________________

5. *Advisory Affiliate* Employing Firm when activity occurred which led to the regulatory action (if applicable):

   ____

6. Principal Product Type (check appropriate item):

☐Annuity(ies) - Fixed
☐Annuity(ies) - Variable
☐CD(s)
☐Commodity Option(s)
☐Debt - Asset Backed
☐Debt - Corporate
☐Debt - Government
☐Debt - Municipal
☐Derivative(s)
☐Direct Investment(s) - DPP and LP Interest(s)
☐Equity - OTC
☐Equity Listed (Common & Preferred Stock)
☐Futures - Commodity
☐Futures - Financial
☐Index Option(s)
☐Insurance
☐Investment Contract(s)
☐Money Market Fund(s)
☐Mutual Fund(s)
☐No Product
☐Options
☐Penny Stock(s)
☐Unit Investment Trust(s)
☐Other

Other Product Types:

____

____

7. Describe the allegations related to this regulatory action (your response must fit within the space provided):

____

____

8. Current status? ☐ Pending ☐ On Appeal ☐ Final

9. If on appeal, regulatory action appealed to (SEC, *SRO*, Federal or State Court) and Date Appeal Filed:

If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.

10. How was matter resolved (check appropriate item):

☐Acceptance, Waiver & Consent (AWC)
☐Consent
☐Decision
☐Decision & *Order* of Offer of Settlement
☐Dismissed
☐*Order*
☐Settled
☐Stipulation and Consent
☐Vacated
☐Withdrawn
☐Other ______________

11. Resolution Date (MM/DD/YYYY): ___________________ ☐ Exact ☐ Explanation

If not exact, provide explanation:____

12. Resolution Detail:

A. Were any of the following Sanctions *Ordered* (check all appropriate items)?

☐ Monetary/Fine ☐ Revocation/Expulsion/Denial ☐ Disgorgement/Restitution

Amount: $ _______ ☐ Censure ☐ Cease and Desist/Injunction ☐ Bar

☐ Suspension

B. Other Sanctions *Ordered*:

Sanction detail: if suspended, *enjoined* or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you or an *advisory affiliate*, date paid and if any portion of penalty was waived:

____

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13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates (your response must fit within the space provided).

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CIVIL JUDICIAL ACTION DISCLOSURE REPORTING PAGE (ADV)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP ADV) is an ☐ INITIAL ***OR*** ☐ AMENDED response used to report details for affirmative responses to Item 11.H. of Part 1A and Item 2.F. of Part 1B of Form ADV.

Check Part 1A item(s) being responded to: ☐ 11.H(1)(a) ☐ 11.H(1)(b) ☐ 11.H(1)(c) ☐ 11.H(2)

Check Part 1B item(s) being responded to: ☐ 2.F(1) ☐ 2.F(2) ☐ 2.F(3) ☐ 2.F(4) ☐ 2.F(5)

Use a separate DRP for each event or *proceeding*. The same event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

One event may result in more than one affirmative answer to Item 11.H. of Part 1A or Item 2.F. of Part 1B. Use only one DRP to report details related to the same event. Unrelated civil judicial actions must be reported on separate DRPs.

PART I

A. The *person(s)* or entity(ies) for whom this DRP is being filed is (are):
   ☐ You (the advisory firm)
   ☐ You and one or more of your *advisory affiliates*
   ☐ One or more of your *advisory affiliates*

   If this DRP is being filed for an *advisory affiliate*, give the full name of the *advisory affiliate* below (for individuals, Last name, First name, Middle name).

   If the *advisory affiliate* has a *CRD* number, provide that number. If not, indicate "non-registered" by checking the appropriate box.

   Your Name ____________________ Your *CRD* Number ____________________

ADV DRP - *ADVISORY AFFILIATE*

   CRD Number ____________________

   This *advisory affiliate* is ☐a firm ☐an individual
   Registered: ☐Yes ☐No

Name (For individuals, Last, First, Middle)

____

☐ This DRP should be removed from the ADV record because the *advisory affiliate*(s) is no longer associated with the adviser.

☐ This DRP should be removed from the ADV record because: (1) the event or *proceeding* occurred more than ten years ago or (2) the adviser is registered or applying for registration with the SEC or reporting as an *exempt reporting adviser* with the SEC and the event was resolved in the adviser's or *advisory affiliate's* favor.

If you are registered or registering with a *state securities authority*, you may remove a DRP for an event you reported only in response to Item 11.H.(1)(a), and only if that event occurred more than ten years ago. If you are registered or registering with the SEC, you may remove a DRP for any event listed in Item 11 that occurred more than ten years ago.

☐ This DRP should be removed from the ADV record because it was filed in error, such as due to a clerical or data-entry mistake. Explain the circumstances:

____

____

____

B. If the *advisory affiliate* is registered through the IARD system or *CRD* system, has the *advisory affiliate* submitted a DRP (with Form ADV, BD or U-4) to the IARD or *CRD* for the event? If the answer is "Yes," no other information on this DRP must be provided.
☐ Yes ☐ No

NOTE: The completion of this form does not relieve the *advisory affiliate* of its obligation to update its IARD or *CRD* records.

PART II

1. Court Action initiated by: (Name of regulator, *foreign financial regulatory authority*, *SRO*, commodities exchange, agency, firm, private plaintiff, etc.)

____

2. Principal Relief Sought (check appropriate item):

☐ Cease and Desist	☐ Disgorgement	☐ Money Damages (Private/Civil Complaint)	☐ Restraining Order
☐ Civil Penalty(ies) /Fine(s)	☐ Injunction	☐ Restitution	☐ Other__________

Other Relief Sought:

____

____

3. Filing Date of Court Action (MM/DD/YYYY): __________ ☐ Exact ☐ Explanation

   If not exact, provide explanation: ______________________________________

4. Principal Product Type (check appropriate item):

☐Annuity(ies) - Fixed
☐Annuity(ies) - Variable
☐CD(s)
☐Commodity Option(s)
☐Debt - Asset Backed
☐Debt - Corporate
☐Debt - Government
☐Debt - Municipal
☐Derivative(s)
☐Direct Investment(s) - DPP and LP Interest(s)
☐Equity - OTC
☐Equity Listed (Common & Preferred Stock)
☐Futures - Commodity
☐Futures - Financial
☐Index Option(s)
☐Insurance
☐Investment Contract(s)
☐Money Market Fund(s)
☐Mutual Fund(s)
☐No Product
☐Options
☐Penny Stock(s)
☐Unit Investment Trust(s)
☐Other

Other Product Types:

____

5. Formal Action was brought in (include name of Federal, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case Number):

____

6. *Advisory Affiliate* Employing Firm when activity occurred which led to the civil judicial action (if applicable):

____

7. Describe the allegations related to this civil action (your response must fit within the space provided):

____

____

____

____

____

8. Current status? ☐ Pending ☐ On Appeal ☐ Final

9. If on appeal, action appealed to (provide name of court) and Date Appeal Filed (MM/DD/YYYY):

____

10. If pending, date notice/process was served (MM/DD/YYYY): __________ ☐ Exact ☐ Explanation

If not exact, provide explanation: ______________________________

If Final or On Appeal, complete all items below. For Pending Actions, complete Item 14 only.

11. How was matter resolved (check appropriate item):

☐Consent ☐Judgment Rendered ☐Settled
☐Dismissed ☐Opinion ☐Withdrawn ☐Other ______________

12. Resolution Date (MM/DD/YYYY): __________________ ☐ Exact ☐ Explanation

If not exact, provide explanation:______________________________

13. Resolution Detail:

A. Were any of the following Sanctions *Ordered* or Relief Granted (check appropriate items)?

☐ Monetary/Fine ☐ Revocation/Expulsion/Denial ☐ Disgorgement/Restitution

Amount: $ _______ ☐ Censure ☐ Cease and Desist/Injunction ☐ Bar

☐ Suspension

B. Other Sanctions:

____

____

____

C. Sanction detail: if suspended, *enjoined* or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement, or monetary compensation, provide total amount, portion levied against you or an *advisory affiliate*, date paid and if any portion of penalty was waived:

____

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14. Provide a brief summary of circumstances related to the action(s), allegation(s), disposition(s) and/or finding(s) disclosed above (your response must fit within the space provided).

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[FR Doc. 2016–20832 Filed 8–31–16; 8:45 am]

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FEDERAL REGISTER

Vol. 81 Thursday,
No. 170 September 1, 2016

Part III

The President

Notice of August 30, 2016—Continuation of the National Emergency With Respect to Certain Terrorist Attacks

Federal Register
Vol. 81, No. 170
Thursday, September 1, 2016

Presidential Documents

Title 3—

The President

Notice of August 30, 2016

Continuation of the National Emergency With Respect to Certain Terrorist Attacks

Consistent with section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d), I am continuing for 1 year the national emergency previously declared on September 14, 2001, in Proclamation 7463, with respect to the terrorist attacks of September 11, 2001, and the continuing and immediate threat of further attacks on the United States.

Because the terrorist threat continues, the national emergency declared on September 14, 2001, and the powers and authorities adopted to deal with that emergency must continue in effect beyond September 14, 2016. Therefore, I am continuing in effect for an additional year the national emergency that was declared on September 14, 2001, with respect to the terrorist threat.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
August 30, 2016.

[FR Doc. 2016–21284
Filed 8–31–16; 11:15 am]
Billing code 3295–F6–P

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Federal Register

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FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

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CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List August 4, 2016

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This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	21 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	35 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
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September 2	Sep 19	Sep 23	Oct 3	Oct 7	Oct 17	Nov 1	Dec 1
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September 20	Oct 5	Oct 11	Oct 20	Oct 25	Nov 4	Nov 21	Dec 19
September 21	Oct 6	Oct 12	Oct 21	Oct 26	Nov 7	Nov 21	Dec 20
September 22	Oct 7	Oct 13	Oct 24	Oct 27	Nov 7	Nov 21	Dec 21
September 23	Oct 11	Oct 14	Oct 24	Oct 28	Nov 7	Nov 22	Dec 22
September 26	Oct 11	Oct 17	Oct 26	Oct 31	Nov 10	Nov 25	Dec 27
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September 29	Oct 14	Oct 20	Oct 31	Nov 3	Nov 14	Nov 28	Dec 28
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